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OF

PROCEEDINGS OF THE COURTS OF INQUIRY

AND

COURT MARTIAL,

IN RELATION TO

CAPTAIN DAVID PORTER:

CONVENED AT

Washington, D. C.

ON THURSDAY, THE SEVENTH DAY OF JULY, A. D. 1825.

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PROCEEDINGS.

(Copy.)

To ISAAC CHAUNCEY, ESQUIRE,
Captain in the Navy of the United States:

It having been made to appear to the President of the United States, that on or about the fourteenth day of November, in the year of our Lord one thousand eight hundred and twenty four, David Porter, Esquire, a Captain in the Navy of the United States, then in command of the Naval forces of the United States in the West Indies and Gulf of Mexico, did, with a part of the military force under his command, forcibly land upon the Island of Porto Rico, a part of the dominions of His Catholic Majesty the King of Spain, then and still at peace and in amity with the Government of the United States, and did then and there commit acts of hostility within the territories, and against the subjects, of the said King of Spain.

The President of the United States has deemed an inquiry into the conduct of the said David Porter, on that occasion, as well as into the causes which led to the same, to be necessary and proper.

And whereas certain representations have been made to the Government of the United States, in regard to the employment of the Naval forces of the United States in the West Indies and Gulf of Mexico, setting forth, in substance, that, in the year one thousand eight hundred and twenty-four, the said Naval forces were not employed in the suppression of piracy in the most effective manner, but were employed in the transportation of specie, and in other objects of inferior moment, to the neglect of the public interests; and the said David Porter, considering his conduct and character as the Commander of said forces to be thereby implicated, has requested of this Department that an inquiry be made into the truth of said representations.

The President of the United States, in consideration of the premises, has charged me to convene a Court of Inquiry for the purpose of examining into the matters aforesaid.

You are therefore hereby ordered to proceed to the Navy Yard at the City of Washington, on or before the second day of May next, to act as a member of said Court, and to officiate as the President thereof.

Orders are also transmitted to Captain Wm. M. Crane and Captain George C. Read, to appear at the time and place aforesaid; and Richard S. Coxe, Esquire, is also appointed Judge Advocate, and will report himself to you in that capacity at the time and place aforesaid.

And the said Court is hereby required to convene and organize at the said Navy Yard at Washington, on the said second day of May, and is authorized and directed to summon before it such persons as may be deemed necessary to give information touching the matters aforesaid; and is also empowered, authorized and directed, diligently and strictly to inquire into the said matters, to make a statement of the facts in relation to the same as they shall appear to the Court; and particularly to examine into and report the causes which led to the conduct of the said David Porter at the island of Porto Rico, before mentioned; and to ascertain and report whether the Naval forces of the United States were employed in the most effective manner in the suppression of piracy, or in objects of inferior moment, to the neglect of the public interests; all which you will transmit to this Department, to be submitted to the President of the United States for his consideration. And for your so doing, this shall be to you and all concerned a sufficient warrant.

Given under my hand, and the seal of the Navy Department of the United States, at the City of Washington, this nine-
[L. S.] teenth of April, in the year of our Lord one thousand eight hundred and twenty-five, and of the Independence of the United States the forty-ninth.

(Signed) SAMUEL L. SOUTHARD.

(Copy.)

Minutes of the proceedings of a Court of Inquiry, directed to investigate the conduct of David Porter, Esquire, a Captain in the Navy of the United States, convened at the Navy Yard in the City of Washington, this second day of May, in the year one thousand eight hundred and twenty five, in obedience to the precept of the Honourable the Secretary of the Navy, bearing date the nineteenth day of April, 1825, which is hereunto annexed, and marked (A.)

Captain Isaac Chauncey, appointed in and by the said precept, as President of said Court, and Captains William M. Crane, and George C. Read, members thereof, and Richard S. Coxe, Judge Advocate, appeared

Captain David Porter also appeared, and being asked whether he had any objection to offer against either of the members of the Court, replied that he had no specific objection to urge, but that he had some remarks which he wished to submit to the consideration of the Court after it was organized, and previous to its proceeding to make the investigation for which it was convened. Whereupon, the oath prescribed by law, in such case, was administered by the Judge Advocate to the President and members of the Court, and the President administered to the Judge Advocate the oath required by law to be taken by him.

Captain Porter then submitted and read to the Court a paper containing certain remarks upon the precept by the authority of which the Court had been convened; which was annexed to the record, and marked (B.)

The room being cleared, the Court proceeded maturely to deliberate on the same; after some time it was opened, and the Judge Advocate informed Captain Porter that he had been instructed to read to him a letter which had been addressed by the Judge Advocate, by the directions of the Court, to the Secretary of the Navy, by which he would be apprized of the course which the Court had taken with regard to the paper submitted by him. Which letter was read, annexed, and marked (C.)

The Court then adjourned till to-morrow morning, at 11 o'clock.

TUESDAY, MAY 3D.

The Court met pursuant to the adjournment of yesterday: present as before.

The Judge Advocate submitted and read to the Court a communication from the Honourable the Secretary of the Navy, in answer to the letter yesterday addressed to him; which was annexed to the record, and marked (D.)

The Judge Advocate then submitted and read to the Court certified copies from the Navy Department of certain papers annexed to the record, and marked (Nos. 1, 2, 3, 4, 5, and 6.)

Charles T. Platt, a Lieutenant in the Navy of the United States, being duly sworn according to law, deposes and says,

On the 24th October last, as I believe, about 7 o'clock in the morning, I received a communication from Messrs. Cabot, Baily and Co. commercial agents at St. Thomas, informing me that their store had been *forcibly* entered the preceding night, and robbed of goods to the amount of not less than five thousand dollars. I commanded the Beagle, then at St. Thomas. With this communication I received also a request from Messrs. Cabot and Baily to assist in recovering the goods. I went on shore and called on them, and there learned from merchants who had been previously robbed at the same place, that they had good reason for supposing that these goods had been taken to Faxardo, or in that neighbourhood.

I lost no time in getting my vessel ready for sea, took with me a pilot furnished from the shore, and a clerk of Messrs. Cabot and Baily, with a description of the goods that had been stolen. On the evening of the 26th, about 6 o'clock, I anchored, with my colours flying, in the harbor of Foxardo. It was then so late, that the pilot did not think it prudent to go on shore, or was not capable of showing me the way. Early the next morning (the 27th) a boat came alongside with a message from the Captain of the Port, who said he would be happy to see me on shore.

I inquired whether he was acquainted with the character of the vessel; to which he replied, yes. Lest he might be mistaken, I di-

rected him to inform the Captain of the Port that it was the United States schooner Beagle, and that I should be on shore as soon as possible. At about half past 6, I landed; I was there met by a parcel of ruffians; I could hardly tell what they were. One of them informed me that I could not proceed up to the village. I inquired of him who he was, whether an officer or not? He gave me no satisfaction whatever, but merely repeated that I could not proceed up to the town. I then proceeded on without any interruption whatever, having been advised so to do by some citizens who were there, who informed me these people had no authority to stop me. Having entered the village, I first went to the Captain of the Port, having been informed by a gentleman, a citizen of the place, that this was proper. I informed the Captain of the Port of the object of my visit, and my reasons for appearing in citizen's dress, and, after producing the letter addressed to Mr. Campos, he appeared perfectly satisfied with my character, and directed me to call upon the Alcalde, and inform him. I called upon the Alcalde and explained to him my object, and again produced the letter to Mr Campos. He was perfectly satisfied with my character, and appeared very much pleased that I had taken the precaution to come on shore in citizen's dress.

He then stated that he had no doubt that he should be able to obtain the goods before night, or ascertain where they were.—This conversation was entirely between ourselves, the interpreter only being present, every one else being out of hearing. He said the recovery of the goods would probably be attended with some expense. I replied, that if it was necessary to offer a reward for the recovery of the goods, I was authorized to offer one, not to exceed one thousand dollars. I then proposed going round to the different stores where it was possible these goods might have been deposited, with the police, and examine the goods, and see if they corresponded with the samples and descriptions we had. It was supposed that the goods which had been stolen were the only goods of that description in the country. He told me to let that matter rest, to let him manage the affair. He observed, that as I had very properly taken the precaution to come on shore in citizen's clothes, he thought it advisable to let it rest entirely with him; that if I accompanied him, it might excite some suspicion. I accordingly went to a public house and took my breakfast. About an hour after I had finished my breakfast, I received a message from the Alcalde, requesting me to call at his office. I was then under the impression that he had made some discoveries in respect to the goods that I was in search of. I went over to his office directly. Lieut. Ritchie and the pilot were with me, to see what the result was.

I inquired, on my arrival at the office, of the Alcalde, whether he had sent for me, and for what purpose. To this the Captain of the Port replied, in the most provoking and insulting manner, that he had sent for me for the purpose of demanding my register. I informed them that I had previously offered to shew my commission,

my uniform, and my colours, that I had no register, that a man of war carried none. He then told me that if I did not produce my register at once, he would imprison me. I then requested permission to go on board my vessel with any officer they might choose to send with me, and that I would satisfy them of the character of my vessel and of myself. I then stated to them that the insult which I had received from them was of that nature that it could not be overlooked on my part, and that I should make a formal report of it to Commodore Porter; and, lest they might deny that they had arrested and imprisoned me, that I should proceed directly on board my vessel, and leave the port. I left the office with the design of returning to my vessel, when I was pursued by soldiers, who took me by the collar, arrested, and brought me back.

I then considered myself as a prisoner. After detaining me about an hour under charge of the sentry, with Mr. Ritchie and the pilot, they consented to let me send Mr. Bedford, the Clerk, who had been sent down by Messrs. Cabot & Baily, on board the vessel, for my commission. I sent him on board, and directed him to bring my commission and uniform, though they did not require the latter. Mr. Bedford returned with them. I put on my uniform and shewed them my commission, observing it was a thing which had never been required of me before.

After perhaps fifteen minutes deliberation on the subject, they pronounced the commission a forgery, and me a damned pirate, and ordered me to be confined in the jail. They called it the King's house, and not knowing what that meant, I thought they were about taking me to the most genteel house in the place. So soon as I approached near enough to discover that it was a guard house, well calculated to produce the yellow fever or plague, I objected to being confined there, and said I would not be, unless they compelled it by force of arms. In about ten minutes they returned me to the quarters from which they had taken me, and placed me under charge of a sentry. After my return, I directed the interpreter to inquire what their object was; whether they meant to detain me, or what they wanted. The answer was, they would detain me until they heard from St. John's, as I had produced nothing to satisfy them of my character. I informed them that what I had already shewn them was all that it would be in my power to shew them after hearing from St. Johns. They informed me I had shewn nothing to satisfy them that I was ever ordered to that vessel as a Lieutenant Commandant.

I then requested permission to send on board for my orders; it was granted; I sent on board and got them. After producing my orders, they called a council, detained me till about fifteen minutes before sun down, confined. I was then set at liberty, and ordered to go on board my vessel, which I did, laughed and hissed at by every blackguard in the street. In this way I left the village, went on board my vessel, and got under weigh.

On the 12th of November I was standing out of the harbour of

St. Thomas, and discovered the John Adams, with her broad pendant flying, standing into the harbour. As soon as the Commodore came to anchor, I went on board and reported myself to him, and mentioned the circumstances that had led to my visit to Faxardo, and the treatment I met with there. The Commodore replied that a written report was necessary. I informed him it should be done directly; that my not expecting him so soon was the cause why it had not already been made out. The Commodore further informed me that if the circumstances of the case would justify my going there as I did, that he would visit Foxardo, and obtain redress for the insult offered to my person, and to the flag of the United States. I referred the Commodore to Mr. Cabot and Mr. Furness, both commercial agents at that place, who would inform him that robberies of the same kind had been before committed, and the goods stolen traced to Faxardo, or the neighbourhood.

The Commodore directed me to go on shore and request Mr. Cabot to come on board, and at the same time get a Pilot. I saw Mr. Cabot, who immediately came on board with me. In the morning the Pilot came on board the Beagle, and I immediately got under weigh and stood out to the Adams, then under weigh, by order of the Commodore. I went on board the Commodore, and delivered my written report. I was then ordered to go a head, with the Pilot on board the Beagle, and make the best of my way to Faxardo.

The wind however was light, and we were obliged to lie too, off and on, during the night. The next morning at day light, I was hailed and ordered to proceed again a head.

At about 7 o'clock a boat was sent on board from the Commodore for the Pilot, and I was directed to proceed on again to the south. At 8, signals were made to follow the motions of the Commodore, who was standing into the land. At 9, we came to anchor under the lee of Passage Island, where we remained until 12 at night, when the Grampus, the Beagle, the barges of the Adams, with as many of the officers and men as could be spared from the vessels, got under weigh, and proceeded towards the harbour of Faxardo. At 8 o'clock in the morning of the 14th, we came to anchor, with the Grampus and Beagle, in the harbour of Faxardo. The barges were officered and manned, and about landing; at this time one of them had been sent to attack a fort on an eminence at the beach. Commodore Porter, at the same time, sent by Lieutenant Stribling a flag of truce to the Alcalde of the place.

At half past 8 we commenced marching up from the landing to the village, which was about a mile and a half distant. We walked it in about fifteen or twenty minutes. After we arrived within about forty rods of the village, in a few minutes we discovered a field piece, a head, with a number of men with muskets. Commodore Porter ordered us to halt; about fifteen minutes after, we discovered a white flag, which was accompanied by Lieutenant Stribling, the Alcalde, the Captain of the Port, and the interpreter. They professed, when they met the Commodore, not to know the object of

his visit; the Commodore informed them they ought to have known that from the tenor of his note. Asked them if they had not confined me after knowing that I was an American officer, and why they had done so? The Alcalde admitted he had confined me after knowing I was an American officer, but said that he was not to blame, as he had been forced to do so by others. The Commodore informed him that he had nothing to do with any other person; that he was the Alcalde, and chief magistrate of the place, and that he held him responsible for the insult offered to me and to the flag. That as he had the power of confining, he certainly had the power of releasing me. The Commodore then informed him there was no necessity for any altercation, that the time he had allowed had nearly expired; that there was about five or seven minutes remaining; that he required of them a suitable apology, such a one as should be dictated; the refusal of which would compel him to resort to force of arms, which should terminate in the final destruction of the village. They acceded to this, and apologised in the manner the Commodore dictated, to the satisfaction of all present.

This being done, we proceeded down to the beach, refreshments were brought down, and we returned to the vessels and got under weigh.

I neglected mentioning the spiking two nine pounders which guarded the passage by which we marched up. I do not know that they were loaded. There was a battery on the beach on the eminence with two cannons. I saw the Spaniards by them with matches; they were training them upon the vessels. This battery was attacked by a barge, and the Spaniards ran without firing; the other barges landed at almost the same time on the beach within half a mile of the battery; they did not fire at us at all.

The Court then adjourned till half past 10 to-morrow morning.

(Copy.)

WEDNESDAY, May 4th.

The Court met pursuant to the adjournment of yesterday: present as before.

The Court resumed the examination of Lieutenant Platt.

Q. Was the store of Messrs. Cabot & Baily in the town or island of St. Thomas?

A. The store of Messrs. Cabot & Baily was in the city of St. Thomas, the dock on the rear of the store.

Q. Were those gentlemen at the time resident merchants at St. Thomas?

A. Yes; those gentlemen were American citizens residing at St. Thomas?

Q. Did any communications pass between yourself and the authorities of St. Thomas, in relation to the alleged robbery?

A. No; I had no communications with the authorities at St.

Thomas, I understood from Mr. Cabot, and subsequently from the Governor, that some had passed between them.

Q. Did you carry any letter or other document from the Governor or other officer of St. Thomas, or any force furnished from that Island?

A. No; I carried no paper from any official person at St. Thomas, but a private letter from one of the most respectable merchants there, addressed to Mr. Campos one of the most respectable merchants at Faxardo.

Q. What orders had you received from Commodore Porter, which you considered as authorizing the steps you took?

A. I had received orders to protect our commerce in every manner which was consistent with the rules of the service. I understood myself as authorized to go on shore at Faxardo, and inform the police of the robbery that had been committed, which was the object I had in view.

Q. Did the messenger from the Captain of the Port, or the Captain of the Port himself, intimate in your first conversation with them that they knew the vessel, then in port, to be an American man of war?

A. Yes; the Captain of the Port, in my first interview with him, appeared perfectly satisfied of the fact, and took down the name of the vessel, and the names of myself and officers, and our force.

Q. In your first interview with the Captain of the Port, or the Alcalde, did you request them to act in the recovery of the property of which you were in search, or did you propose to search for, and take, the property yourself?

A. I requested them to act, to search for the goods; not intending to act myself at all. I afterwards proposed going myself with the police, which they objected to as unnecessary.

Q. Did Commodore Porter know any thing of the transaction at Faxardo, previous to your communication to him?

A. No; he did not.

Q. Do you know whether any communications were made to the authorities at Porto Rico, either by yourself or Commodore Porter, prior to the landing of the force at Faxardo?

A. I knew of none.

Q. In what boat or vessel did Lieutenant Stribling go to Foxardo, and what length of time elapsed between his going with the flag of truce, and the landing on the beach?

A. Lieutenant Stribling went down to Faxardo in the Grampus, and landed about the same time that the men did.

Q. Where did he receive his instructions from the Commodore: at Faxardo, or before your arrival there?

A. I do not know

Q. How many officers and men were landed? How were they armed? What orders were given by the Commodore to the landing party, or to those who remained behind?

A. I believe that about two hundred officers and men were landed. I do not know what orders were given to those who remained. I was ordered to land with as many men as I could conveniently, without crowding, carry in the boats. The men were armed with muskets, boarding pikes, cutlasses and pistols. I heard no other orders given than that; after we landed, we were directed by the Commodore to fall into line and march up.

Q. Had any answer been received to the communications made through Lieutenant Stribling, before the landing of the men and the spiking of the guns in the battery on the beach, and the two nine-pounders between the beach and the town?

A None that I knew of.

Q. What is the distance between Faxardo and St. Johns?

A. I think about forty miles.

Q. Did the interpreter appear to be an intelligent man, well acquainted with the Spanish and English languages? And do you understand Spanish sufficiently well to know whether he interpreted correctly?

A. The interpreter appeared perfectly acquainted with both languages. I understood some things that were said, and my pilot, who understood both languages, told me that he interpreted correctly.

The examination of the witness, in chief, having been closed, Captain Porter was asked whether he had any questions to propose to the witness, to which he replied, that before proceeding to take any steps in his defence, he had some remarks to submit to the Court, which he read, and submitted to the Court; the paper was annexed to the record, and marked (E.)

The room was then closed, and, after some time, was opened, when the Judge Advocate informed Captain Porter that the Court had maturely deliberated upon the paper submitted by him; that, after full consideration, the Court is of opinion that the matter of the communication, as well as the language in which it is couched, is in several particulars so highly objectionable that, could the Court have anticipated its character and contents, it would not have been suffered to be read. The Court consider it as highly disrespectful both to the Secretary of the Navy and to the Court itself. This Court cannot submit to hear from any officer animadversions on the conduct and accusations against the head of the Department, wholly foreign to the investigation in which it is engaged: nor can it, without forfeiting its own self respect, listen to language so offensive to itself. The Court is willing to believe that this objectionable character may be attributed to the hasty manner in which the paper appears to have been drawn up; and that Captain Porter, on consideration, will feel himself disposed, as well to perceive as to rectify the grounds of objection.

In order however to prevent a recurrence of such unpleasant circumstances, the Court has ordered that, in future, no communication be received unless in writing: and the paper must previously

be submitted to the Judge Advocate for the consideration of the Court.

The Judge Advocate further informed Captain Porter that the Court had likewise directed him to state, that when the question was asked him on the opening of the Court whether he had any objections to make to any member of the Court, he was understood to say distinctly that he had none; but that he wished to submit to the Court some "remarks on the precept by which the Court was convened, and the materials of which it was constituted." It was then suggested to him, that, as the Court had not yet been organized, it could at that time hear nothing from him, but that the proper period would be after the members had been sworn in. This suggestion was made by the Judge Advocate, and apparently acquiesced in by Captain Porter.

Immediately after the organization of the Court, Captain Porter read and submitted to the Court the paper which has been annexed to, and constitutes part of, the record.

Conceiving that it contained not a challenge to the Court, or a specific exception to any member of the Court, but objections applying exclusively to the precept under which it had been convened; and that these objections, if presented to the Government, might possibly induce some change in the precept, with which the Court had no authority to interfere; feeling also that the exceptions which had been urged, involved the competency of the major part of the members of the Court,—a question on which delicacy forbade them to express an opinion, when it had not been presented distinctly to their decision; the Court determined to pursue the course which was adopted, and of which Captain Porter was immediately apprised.

If, however, Captain Porter did design to raise a question for the decision of the Court, as to the legality of the precept under which it is acting, the Court has no hesitation in saying that it entertains no doubt upon the subject. Had any doubt existed, the Court would have put it in a way to be satisfactorily decided, before proceeding to act under it.

The Court is aware that it possesses no power to compel Captain Porter to take any part in this investigation; but it is equally satisfied that his acts can in no degree interfere with the duty of the Court to proceed in the investigation which it has been charged to make by the competent authority.

The Court then adjourned till ten o'clock to-morrow morning.

THURSDAY, May 5th.

The Court met pursuant to the adjournment of yesterday: present as before.

Captain Porter stated to the Court, that on perusing the record, it appeared to him that an omission had been made, (which he was desirous of having supplied,) in stating the proceedings of the first

day. He submitted to the Court his statement of the remarks which he made before the oath was administered to the members. The Court being of opinion that Captain Porter is entitled to have his statement inserted in the record, as containing his view of what transpired, directed it to be inserted. It is in the words following, viz:

"Captain Porter being asked whether he had any objection to offer against either of the members of the Court, replied that he had no specific objection to individuals; but he objected to the materials of which the Court was composed, and stated further, that he had some remarks to make on the subject, as well as on the precept; that he did not think the Court was legally formed."

Captain Porter then submitted to the Judge Advocate, for the consideration of the Court, a paper. The Court was cleared, and after some time was opened. The Judge Advocate informed Captain Porter that he was instructed by the Court to say that the paper has been maturely considered; that it is deemed objectionable from the style of animadversion upon what has transpired, and of instruction as to the future conduct of the Court. The Court therefore will permit Captain Porter to withdraw it. Should he, however, wish it to be inserted on the record in its present shape, it shall be done, accompanied by such remarks as the Court conceives it due to themselves to make.

Captain Porter declined to withdraw the paper, it was accordingly read, annexed to the record and marked (F,) and the Judge Advocate informed him as follows:

The Court feels constrained to make some remarks upon the animadversions which Captain Porter has thought himself entitled to pass upon its conduct. The Court did understand Captain Porter to waive or decline challenging any of the members of the Court, but at the same time to intimate as an objection, which he conceived existed against the organization of the Court, that two of the members were his juniors in rank. The Court did not at any time suppose that this objection had any foundation, either in the letter, or spirit of the law. The law is silent on the subject. The only qualification required is, that the members of the Court should be commissioned officers.

"The materials then of which this Court is constituted," are conceived to be wholly free from any legal objection. Nor is there any thing in the spirit of the law which the Court has been able to perceive, leading to a different conclusion. Every member of this Court holds the same commission with Captain Porter; all are Captains, one his senior, two his juniors, in date of commission. The Court, however, is clearly and unhesitatingly of opinion that no law would be violated, either in its letter or spirit, by the appointment of any three commissioned officers to constitute a Court of Inquiry into the conduct of any officer. Courtesy and a regard to the feelings of the officer whose actions are to be investigated, will, it is presumed, in all cases prevent the Government from selecting officers of a

very inferior grade, to set upon an inquiry into the conduct of an officer of elevated rank.

But this principle can scarcely be carried to an extent which would apply to a Court, every individual of which holds the highest commission which is known to the American Navy. At all events, this is an objection which the Court conceived, and still conceives, can be properly decided only by the Executive. This Court can in no manner interfere with such a question.

In this instance, likewise, it appeared to the Court to be so connected with other comments upon the precept, as to present itself before the Court, rather as an animadversion upon the conduct of the Executive in thus organizing the Court, than as a challenge formally presenting the question for its decision. Captain Porter seems himself to have so viewed it, for he assigns his reasons for making this Court the organ of his communications with the Department.

The Court thinks proper further to remark, that the single object for which it has been constituted, is to inquire into the official conduct of Captain Porter; and to report to the Department the facts which may be proved. The Court possesses no power to adjudge Captain Porter innocent or guilty: it has no authority to impose punishment. The duties imposed are enjoined by the competent authority. The interference of Captain Porter in pursuing this investigation, however desirable it may be as calculated more fully to elicit the truth, is in no manner necessary. The Court is competent of itself to perform the duties imposed upon it, and will now proceed to execute that task.

Captain Porter was then asked whether he had any questions to propose to Lieutenant Platt. He declined putting any, and observed he should now take his leave of the Court.

Alexander J. Dallas, a master and commander in the Navy of the United States, being produced as a witness, and sworn according to law, deposes and says,

I was a master commandant in command of the John Adams, bearing Commodore Porter's broad pendant. We arrived some time in November. I do not distinctly remember the date, off the town of St. Thomas, in the Island of St. Thomas. On our arrival there, some time I think in the afternoon of the same day, Lieutenant Platt, in company with Mr. Cabot, came on board the John Adams, and made a report to the Commodore of some ill treatment which Lieut. Platt had received at Faxardo. In consequence of this report, I understood from the Commodore that it was his intention to visit Faxardo, and endeavour to obtain an apology from the authorities there for their conduct. On the following morning, I was directed to get the John Adams under weigh, and proceed to Faxardo.

In consequence of the lightness of the winds, and the Pilot being of opinion that the draught of water of the John Adams was too great to permit her being taken near the town, I was directed to anchor her under one of the Passage Islands, to get out all my boats and

prepare a hundred and odd men with the officers. After all these preparations were made, the day had so far advanced that we could not have arrived there before night. In consequence of which, the Commodore directed that we should be ready by one or two in the morning to go on board the Schooner Grampus, she and the Beagle being in company; we did so, and the Grampus took our boats in tow. We then proceeded to Faxardo, where we arrived about nine or ten the next morning. On anchoring, we observed on a hill, near the beach, a small battery, in which there appeared to be a number of men, who it was supposed intended to make some resistance to our anchoring. An order was given by the Commodore that a boat and her crew should dislodge the men from that battery. The boats were then all manned, and we landed. The Commodore then directed Lieutenant Crabbe, with a portion of the marines, to advance and take a position on the road, by which we were to march up to the town. Lieutenant Stribling was then dispatched with a flag and a letter to the authorities of Faxardo; after having formed the men, we were directed to follow on by the road, leaving a guard of marines to protect the boats under the command of Lieutenant Barton. We then marched to within about twenty or thirty yards of where the marines under the command of Lieutenant Crabbe were. The Commodore directed two guns, which we met with on the road, to be spiked. We remained there until Lieutenant Stribling returned with two officers, who were understood to be the Alcalde and the Captain of the Port. A conversation took place between the Commodore and the Alcalde through the medium of an interpreter; the result of which was an apology to Lieutenant Platt for the ill treatment he had received on his previous visit. The Commodore asking the officers generally, if they were satisfied with the apology. Finding they were so, he directed our return. He received however an invitation to go himself into the town.

He went as far as led us by all the force that was collected. A field piece and sixty or seventy men with arms. After this we returned to the beach, where some rum and refreshments being given to the men, we embarked in the boats, went on board the Grampus, and sailed for the John Adams.

Q. Had you received any information on board the John Adams of Mr. Platt's treatment at Faxardo, previous to his making the report of the transaction to the Commodore?

A. The account Mr. Platt gave was, I believe, the first we had of the affair.

Q. Was any communication made to the authorities of Porto Rico previously to your entering the harbour of Faxardo?

A. None that I know of.

Q. Did Captain Porter consult with any of his officers as to the expedition he projected, or did any of them express any opinion to him on the subject?

A. He did not consult with any of them; from the intimacy that subsisted between Commodore Porter and myself, I believe I made

some remarks to him as to the consequences that might probably result from it, and I think he replied that his instructions would bear him out in the course he intended to pursue on the occasion.

This was a voluntary suggestion by me, not called for by his expressing any wish to consult me.

Q. What orders did you receive from Captain Porter previous to, or at, the time of your landing?

A. The only orders that I received were those which I have mentioned, and that I should take care the men were not out of the way, and that they committed no excesses.

Q. How were the men armed? Were the guns loaded?

A. They were armed with muskets, bayonets, cutlasses, pistols, and boarding pikes. The guns were loaded on the beach before we marched up.

Q. Was any flag or communication sent to the shore before you landed?

A. None; Lieutenant Stribling landed with us. The boat sent to spike the guns on the hill went previously to our landing.

Q Did you advance towards Faxardo before the return of the flag sent by Lieut. Stribling, or did you remain on the beach till his return?

A. We advanced before the return of the flag.

Q. Were the guns spiked before the return of the flag?

A. Yes; none were spiked after.

Q. What orders were given by Commodore Porter to the officers remaining on board the vessels?

A. I do not know.

Q. Were the Grampus and Beagle anchored in such a situation as to enable them to cover the landing?

A. Yes; the Beagle certainly was—I think the Grampus also.

Q. Was any opposition offered to your landing, or to your advance towards the town?

A. None; the impression was that the force on the hill would, had they been able, have fired on the vessels, but there was no opposition to our landing.

Q. What time would it have required to communicate from your anchorage with St. Johns?

A. The distance, I should presume, is about forty or fifty miles.

Q. Is not St. Johns the seat of Government of Porto Rico?

A. Yes; the Governor of the Island resides there.

Horatio N. Crabbe, a Lieutenant in the Marine Corps of the United States, being duly sworn according to law, deposes and says:

I was commanding officer of Marines on board the John Adams in November last. I landed at Faxardo in the same boat with Lieut. Stribling, and on getting on the beach, an officer informed me, that Commodore Porter, who had previously landed, wished to see me. My command was distributed in different boats.—On reaching the place on the beach where the Commodore was, I

was directed by him to form my guard, look for the road to the town, proceed, and take up a favourable position ; and at the same time received very particular instructions not to suffer my men to commit any outrages upon the property of the inhabitants along the road ; nor to commit any act of hostility myself, unless I met with resistance, or was opposed on my march towards the town.— After receiving these instructions, I commenced my march towards the town, with from twenty-four to twenty-eight men, armed with muskets. When about half way between the beach and the town, I discovered several persons approaching me, following me with a white flag. I could not at the time distinguish who they were, and continued my march. After a short time I discovered that the bearer was Lieut. Stribling, on his way from the beach to the town. I halted till he came up. As he passed me, I observed to him that I would escort him into the place ; he answered very well. After proceeding a short distance further, he was met by a number of persons from the town, bearing a white flag also. I was at that time from twenty to thirty yards behind him. Immediately on his reaching the spot where these persons were standing. I observed that Lieut. Stribling was surrounded by a number of armed men. After some conversation with them, of which I knew nothing, he sent a message to me, requesting me not to advance any further. I accordingly halted the men, and rested them upon their arms. I was at this time from about two hundred and fifty to three hundred yards from the town, perhaps less, and observed that there was a number of armed men drawn up, as I presumed, to prevent my troops from entering the place. They amounted perhaps to about three times as many men as I had, and had a field piece, which I presumed was a six pounder. There was also a number of men mounted on horseback, who were armed with swords. They were at the entrance of the town. I remained in the position I had taken up, until the Commodore came up with a body of seamen. He halted them some distance in rear of my division, and came himself to the ground I occupied, and directed me to wheel my men into a position which would face the Spaniards. I did so, and again rested them upon their arms. In the course of perhaps fifteen minutes, Lieut. Stribling was observed returning, accompanied by the Governor of the place, and a small number of the inhabitants. I was then directed by Commodore Porter to place my men in a situation that would occupy both sides of the road, and suffer none but those in attendance on the flag to pass me. After this he returned to where the officers were assembled, some distance in the rear of the Marines, and there received the Governor or Alcalde. I know nothing of what occurred there, their being at too great a distance to hear. In a short time I observed the Governor, with Commodore Porter and a number of the officers approaching me. The Commodore gave me orders as he passed, to put the Marines in motion, and follow him into the town, which I did. After passing the armed Spaniards, I halted upon the outskirts of the place.

The Commodore observed to me that he had been invited into the place by the Governor, and also the men, to take some refreshments after the march, but said at the same time that he did not wish to bring all the men in, as he apprehended that some excesses might be committed, which would put an end to the peaceable settlement of the business. He, however, told the Governor, through the interpreter, that if refreshments were sent to the beach, they should be paid for. After that they parted, as I thought on friendly terms, and we left the town, and returned to the boats. I brought up the rear with the Marines. A number of the inhabitants accompanied us down. Refreshments were sent and distributed to the men. We then embarked, and returned to the vessels Commodore Porter, with the Marines, and the Alcalde, entered the outskirts of the place, but none proceeded further.

The Court adjourned till 2 o'clock to-morrow.

FRIDAY, MAY 6TH.

The Court met pursuant to the adjournment of yesterday: present as before, with the exception of Captain Porter, who was not present.

Lieutenant Platt was again called.

Q. How far is the place where the John Adams was left at anchor from Faxardo?

A. About twenty-two miles.

Q. At what hour did you leave the John Adams, and at what hour did you arrive at Faxardo?

A. We left the John Adams at midnight, and arrived at half past seven or half past eight.

Q. To what nation does the Island of St. Thomas belong?

A. It is a Danish Island.

Q. When you left the John Adams, at what time did you calculate to reach Faxardo?

A. The intention of the Commodore was to reach Faxardo at sun rise, as he informed me; we were detained by light winds, and a calm.

Q. Were the two nine pounders taken and spiked by the marines, or by the sailors who came up afterwards; and describe as near ly as you can their position?

A. I was ordered by the Commodore to spike them, I informed him I had nothing to spike them with, and Mr. Pendergrast was then ordered to do it; the marines had passed them. They were placed in the road, on a causeway, where the road was straight for about one hundred rods, and commanded that part of it; there were no Spaniards there at that time, they had abandoned them; but they had been manned on my first visit to the place. The guns on the hill were, I understood, long eighteen pounders.

Q. Were both the Grampus and Beagle anchored in a position to cover the landing?

4. The Grampus was anchored off the battery; the Beagle in a situation to cover the landing.

The Judge Advocate informed the Court that he should probably be in possession of more testimony to submit to-morrow, but had none to lay before the Court at this time.

The Court adjourned till twelve o'clock, to-morrow.

SATURDAY, MAY 7TH.

The Court met pursuant to the adjournment of yesterday: present all the members of the Court, the Judge Advocate, and Captain Porter. The Judge Advocate informed the Court that he had received a communication from the Secretary of the Navy, to be submitted to the Court, which was read, annexed to the record, and marked (G.)

The accompanying documents were also read; the Court reserving all questions, as to their competency and credit for future deliberation and decision. After reading the papers, the Court was cleared, and the Court proceeded to deliberate upon the papers submitted to it; and, after having maturely considered the same, the Court was opened, and the Judge Advocate stated that the Court is of opinion that the deposition of Lieut. Barton, dated February 6th, 1825, be annexed to the record, which is accordingly done, and the paper is marked (7.)

In regard to the other documents, the Court is of opinion that many of them are not sufficiently authenticated to authorize their reception, without an express and sufficient waiver of all exceptions entered on the record; that some of them appear to be of a confidential character, and their contents such as, without affecting this case, ought not to be exposed to the public eye without necessity; and that collectively, they present no facts or views calculated to elucidate the subject submitted to the Court. The Court, therefore, directs the Judge Advocate to return them to the Navy Department, as irrelevant.*

The Court adjourned till half past ten o'clock, Monday morning.

MONDAY, MAY 9TH.

The Court met pursuant to the adjournment of Saturday: present all the members of the Court, the Judge Advocate, and Captain Porter.

The Judge Advocate stated to the Court that he had no further testimony to submit to the Court in the investigation, and the other branch of inquiry having been submitted to the Court at his solicitation.

* It appears by the statement of Captain Porter, as well as of his Clerk, that the letter from him referred to in the letter, was dated March 6th, instead of May 6th, by a mistake of the Clerk. R. S. COXE, *Judge Advocate.*

The Court was cleared, and proceeded to deliberate upon the course to be pursued; and after some time was opened, and the Judge Advocate stated, that the Court had determined to proceed to complete the business which had already been investigated, and to report to the Department the facts which have been proved in relation to it.

The record of the proceedings was then read by the Judge Advocate, and the Court was cleared, for the purpose of deliberating upon the report to be made to the Department.

The Court having concluded the examination of the witnesses, and having maturely deliberated on the precept, and the evidence which has been submitted, agree in the following

REPORT.

The Court, in obedience to the precept of the Honourable the Secretary of the Navy, having examined into the conduct of Captain David Porter, in landing with a part of the military force under his command upon the island of Porto Rico, a part of the dominions of his Catholic Majesty the King of Spain, on or about the fourteenth day of November, in the year one thousand eight hundred and twenty-four; and having also inquired into the causes which led to the same; and having maturely deliberated upon the testimony which has been laid before the Court, reports to the Honourable the Secretary, the following statement, as containing a correct history of the transaction, embracing all the material facts, and exhibiting the causes which led to the occurrence, as well as the circumstances which attended it.

It appears that Lieut. Charles T. Platt, commanding the United States schooner Beagle, was in the harbour of St. Thomas, in the Danish Island of that name, on the twenty-fourth day of October, one thousand eight hundred and twenty-four. On the preceding night, a robbery had been perpetrated in the city of St. Thomas; the store of Messrs. Cabot & Baily, American citizens, but resident merchants at St. Thomas, had been broken open and plundered of property to a large amount. The gentlemen who had suffered by this outrage, made application to Lieut. Platt for his aid in the recovery of the property. He immediately agreed to comply with the request.

No communication appears to have been had between Lieutenant Platt and the authorities of St. Thomas, in relation to this affair. The application for his assistance was made by private individuals, and upon that application alone he acted.

Information was given to Lieut. Platt, that on other occasions robberies of the same kind had occurred at St. Thomas; and the stolen goods had been traced to, and discovered at Faxardo, (a small town in the island of Porto Rico,) or its vicinity, and that there existed grounds for the suspicion that the goods plundered in this case, had been carried to that neighbourhood.

As soon as the Beagle could be got ready, she sailed for that place. No document of any kind from the Governor, or other officer, was carried, but a letter from a private mercantile house at St. Thomas, addressed to a private merchant at Faxardo, was the only paper which Lieut. Platt appears to have had to show the object he had in view, or any authority to act in the business. The contents of that letter are unknown to the Court, it not having been exhibited in evidence. The Beagle, however, carried from St. Thomas a Mr. Bedford, a Clerk in the house of Messrs. Baily & Cabot, for the purpose of identifying the goods, and a pilot, furnished by the same parties.

On the evening of the 26th October, about 6 o'clock, the Beagle anchored, with her colours flying, in the harbour of Faxardo. It was considered too late to visit the shore on that day; early in the morning of the 27th, a boat from the shore came on board, bearing a messenger from the Captain of the Port, and Lieut. Platt received an invitation to land. The messenger, in answer to a question from Lieut. Platt, stated in general, that he knew what vessel it was. In order to guard against any mistake, Lieut. Platt mentioned that it was the United States' schooner Beagle, and sent a message to the Captain of the Port, to inform him that he should be on shore as soon as possible.

At about ½ past six he landed, without his uniform or commission, and after some little interruption proceeded to the town, and waited upon the Captain of the Port, to whom he communicated the object of his visit. He at the same time informed him of the name and character of his vessel, the names of himself and officers, and their force, of which the Captain of the Port took a memorandum; the private letters from the mercantile house at St. Thomas to the merchant at Faxardo was likewise produced and exhibited. The Captain of the Port appeared satisfied with the information, and by his directions Lieutenant Platt next called upon the Alcalde of the place, to whom he made the same communications. The Alcalde expressed himself pleased with the prudence exhibited by Lieut. Platt in landing in the dress of a citizen.

The object of Lieutenant Platt appears to have been to give information of the robbery that had been perpetrated at the island of St. Thomas, and to solicit the interference of the civil authorities at Faxardo, in searching for and recovering the stolen goods. The Alcalde promised this assistance as requested, but declined a proposal made by Lieutenant Platt, that he should accompany the officers of the police to search the stores in the town.

Lieutenant Platt left the house of the Alcalde, and went to a public house. Shortly after breakfast, he received a message from the Alcalde, expressing a wish to see him. He immediately went, accompanied by Lieutenant Ritchie and the Pilot. On his arrival, he enquired of the Alcalde whether he had sent for him, and for what object. The Captain of the Port replied that he had sent for him for the purpose of demanding his register. Lieutenant Platt stated

to them that he had no register, that a man of war carried no such document ; that he had previously offered to shew his commission, his uniform, and his colours. The reply was that, unless he produced his register at once, he should be imprisoned. He requested permission to go on board his vessel, with an officer that might be selected to accompany him, whom he would satisfy with regard to his own character, as well as that of his vessel. He at the same time informed them he should make a formal report to Commodore Porter of the insult he had received.

Lieutenant Platt then left the house of the Alcalde, and proceeded towards the harbour, with the intention of going on board the Beagle ; he was, however, immediately followed by some soldiers, collared, arrested, brought back, and placed under charge of a sentry. After Lieutenants Platt and Ritchie and the Pilot had been detained about an hour, Mr. Bedford, the Clerk, brought from St. Thomas, was permitted to go on board the Beagle, with instructions from Lieutenant Platt to bring his commission and uniform. On their being brought to him, he put on his uniform and exhibited his commission : the latter, after an examination of it, was pronounced a forgery, and he himself called a damned pirate.

Orders were then given to carry him to the King's house or jail ; and he was taken from the house of the Alcalde for that purpose. On approaching near enough to see what kind of a place it was, he refused to go in, and declared that he would not enter, unless compelled by force.

He was soon taken back to the Alcalde, and after being threatened with detention until a communication could be made to St. Johns, the capital of the island, and about 40 miles distant, he was informed that he had not exhibited any appointment to the vessel which he commanded. He sent on board for his orders, and after producing them, a consultation was held. They continued to detain him confined until near sun set, when he was released, ordered to go on board his vessel, which he did, insulted by the rabble of the place as he passed along.

Such is the summary of the statement now given by Lieutenant Platt of his first visit to Faxardo, and the reception he experienced, although more detailed than his written report, and in some material parts variant from it. It appears to the Court that the circumstances which were related to Captain Porter, in the conversations which he had with Lieutenant Platt, together with his written report, may be considered as embracing all "the causes which led to the conduct of Captain Porter," which it is enjoined upon the Court to report to the Department.

The next branch of the subject into which the Court is directed to inquire, is the conduct of Captain Porter in landing with a military force under his command upon the island of Porto Rico.

It appears that, immediately after receiving the report of Lieutenant Platt of his visit to Faxardo, and the treatment he had there received, Captain Porter determined to visit that place for the pur-

pose of obtaining redress for the violence which had been offered to the person of that officer, and the insult which he conceived had been given to the flag of the United States.

It appears that captain Porter did not communicate with the constituted authorities of Porto Rico, or require any explanation of, or apology for, the alleged outrage, before proceeding to the harbour of Faxardo.

At midnight of the 13th November. the John Adams was left at her anchorage in the neighbourhood of Passage island, and Captain Porter, in the Grampus, having in tow the boats of the John Adams, and accompanied by the Beagle, carrying with them about one hundred men from the John Adams, proceeds to Faxardo: His progress being delayed by light winds and a calm, he did not reach his point of destination until about 8 or 9 o'clock in the morning of the 14th. The Grampus anchored opposite a battery of two guns, and the Beagle took a position to cover the landing. Preparations were immediately made to land, and the boats were manned, a battery was perceived on an eminence near the beach, in which were two pieces of cannon, and the Spaniards were seen with matches, and in the act of loading the guns, and training them in the direction of the Grampus.

Lieutenant Pendergrast was ordered to take the launch of the Grampus, being the largest boat, with a body of marines, fourteen in number, under the command of Lieutenant Barton, to proceed in the direction of the two gun battery; to land the men with as little hazard as possible; to take the battery, spike the guns, and destroy the ammunition: and having accomplished these objects, to pursue the direction of the main body under the command of Captain Porter in person.

Lieutenant Pendergrast was particularly ordered not to fire a gun, unless he met with resistance, and not to permit his men to commit any depredations on persons or property. These orders appear to have been punctually obeyed.—Perceiving that the Spaniards in the battery were training their guns to bear upon the Grampus and the launch, Lieutenant Pendergrast hastened to effect a landing in the rear of the fort. This was accomplished with such despatch, that the Spaniards were unable to fire. Having succeeded in landing in the rear of the battery, the detachment armed with muskets, pistols and cutlasses, mounted the hill, and on reaching the battery, found it deserted by the Spaniards. Possession was quietly taken, and two long eighteen pounders found there were spiked—one of the guns was charged with a cartridge of powder, and round shot, and the canister filled with grape shot, musket balls and spikes;—the gun primed and a lighted match near it. The other gun had been abandoned before the loading was completed. A small quantity of ammunition found in the battery was destroyed;—the party re-embarked, and proceeded to join the Commodore, who had in the mean time landed on the beach at the distance of about half a mile from the battery.

The whole number landed, appears to be about two hundred officers and men, armed with muskets, bayonets, pistols, cutlasses, and boarding pikes.

The muskets were loaded after landing on the beach. The marines, under Lieutenant Barton, were left to guard the boats. Another party of them was ordered by Captain Porter to march towards the town, and take up a commanding position. The officer who led them, Lieut. Crabbe, was particularly instructed to keep his men in their respective places; to prevent them from committing any excesses upon the property of the inhabitants along the road, and to abstain from all acts of hostility, unless he should be attacked, or his advance towards the town should be opposed.

In obedience to these orders, Lieut. Crabbe proceeded towards the village of Faxardo, with from twenty-four to twenty-eight men under his command. The beach where the landing was effected, was about a mile and a half from the town. When about half way from the beach, Lieut. Crabbe discovered Lieut. Stribling following him bearing a white flag. As soon as he had approached near enough to be recognised, the marines were halted. Lieut. Stribling came up with, passed them, and proceeded towards the town. The marines followed at a short distance in his rear. Lieut. Stribling was soon after met by a party from the village, likewise bearing a flag, and some communications passed between them, which however are not in evidence before the Court. Lieutenant Stribling deispatched a message to Lieutenant Crabbe, then about thirty or forty yards in his rear, desiring him not to advance further. The marines were then halted at about from two hundred and fifty to three hundred yards from the village About the same time a number of armed men, perhaps sixty or seventy, were seen, stationed near the entrance of the town, with a small cannon, supposed to be a six pounder, and a number of horsemen armed with swords.

Having disposed of the marines in the manner that has been stated, Captain Porter advanced towards Faxardo with his main body. On the way up, they spiked two nine pounders which the Spaniards had abandoned, and which were in a position to have commanded a part of the road. These guns had been passed by the marines without their taking possession of them. Captain Porter continued his march till he arrived about thirty yards in the rear of the marines, where he halted his men—and advanced himself to the force under the command of Lieutenant Crabbe. The marines were then wheeled so as to front the Spaniards.

In the course of a few minutes, the flag was seen returning from the town, and Lieutenant Stribling, accompanied by the Alcalde, the Captain of the Port, and some of the inhabitants, approached. The marines were directed to occupy both sides of the road, and to permit none to pass, excepting those who were in attendance on the flag. Captain Porter retired to the rear, near the main body, and accompanied by his officers, received the Alcalde.

battery on shore, I sent a party of seamen and marines to spike the guns, which was done in a few minutes, as the Spaniards fled on the landing of the party. I then landed with two hundred men, and marched to the town, spiking on the way the guns of a small battery placed for the defence of a pass on the road, and reached the town in about thirty minutes after landing; I found them prepared for defence, as they had received information from St. Thomas of my intentions of visiting the place. I halted about pistol shot from their forces, drawn up on the out skirts of the town, and sent a flag, requiring the Alcalde or Governor, with the Captain of the Port, the principal offenders, to come to me to make atonement for the outrage, giving them one hour to deliberate. They appeared accordingly, and after begging pardon (in the presence of all the officers) of the officer who had been insulted, and expressing great penitence, I permitted them to return to the town, on their promising to respect all American officers who may visit them hereafter. We then returned to the vessels, and left the harbour, after being at anchor three hours.

As we were getting under weigh, a number of persons appeared on the beach, bearing a white flag, and having with them some buttocks and a number of horses apparently laden, no doubt a present from the authorities of the place, which they informed me they should send me.

There is no doubt that our persons and our flag will be more respected hereafter, than it has been by the authorities of Porto Rico.

Every officer and man on this occasion, conducted themselves in a manner to meet my entire approbation.

I have the honour to be, very respectfully, your most ob't serv't,

Signed, D. PORTER.

The Hon. SAML. L. SOUTHARD, *Sec'y of the Navy, Washington.*

NAVY DEPARTMENT, *2nd May*, 1825.

I certify that the foregoing is a correct copy from the original on file in this Department.

Signed, CHA'S HAY, *Chief Clerk.*

(Copy.)

U. S. SHIP JOHN ADAMS,

THOMPSON'S ISLAND, *January 1st*, 1825.

SIR: I have the honour to transmit you copies of the statements made to me, which induced me to take the step I did, as regards the Spanish authorities at Faxardo.

I have the honour to be, very respectfully, your ob't. serv't.

Signed, D. PORTER.

Hon. SAMUEL L. SOUTHARD, *Secretary of the Navy.*

NAVY DEPARTMENT, *2nd May*, 1825.

I certify that the above is a correct copy from the original on file in this Department.

Signed, CHA'S HAY, *Chief Clerk.*

(Copy.) No. 3.

St. THOMAS, 12*th November*, 1824.

SIR: I have the honour to inform you that the store of Cabot, Baily & Co. was broken open on the night of the 24th ult. and property to a considerable amount stolen, and having strong reasons to believe that the robbery was committed by a gang of thieves who harboured in the island of Porto Rico, I communicated the same to Captain Platt, of the U. S. schooner Beagle, who very promptly offered to go there in pursuit of them, and started for Faxardo on the morning of the 25th with a Pilot which I furnished him, and a young man from the Counting House, with a description of the goods, and a letter of introduction to Mr. Juan Campos, from one of the most respectable houses in this place, and well known in that quarter. The manner in which Captain Platt was received and treated has no doubt been communicated to you by him.

I beg leave to enclose a letter from Messrs. Bergeest and Whlhorn, confirming the facts of the late robberies in this Island, having in most instances been traced to the quarter of Porto Rico, where Captain Platt went.

I have the honour to be, sir, with great respect, your most obedient servant.

Signed, STEPHEN CABOT, *U. S. Consular Agent.*

To Com. DAVID PORTER.

NAVY DEPARTMENT, *2nd May*, 1825.

I certify that the foregoing is a correct copy of an enclosure contained in a letter from Commodore D. Porter to the Secretary of the Navy, dated 1st January, 1825.

Signed, CHAS. HAY, *Chief Clerk.*

(Copy.) No. 4.

11TH NOVEMBER, 1824.

SIR: At the request of our friend, Mr. Stephen Cabot, we beg leave to state to you some facts relative to the robberies lately committed in this Island.

Our own store, and amongst others, those of our neighbours, Messrs. Ellis, Gibson & Co. John Kettle, Esq. Robert Alexander, Esq. Saubot Zoubert & Co. were forcibly broken open, property to a very large amount stolen, and a considerable part of the goods traced to Naguabo, near Faxardo; in consequence of which, and the circumstance that, about ten days previous to the robbery committed in the store of Messrs. Cabot, Baily & Co. a gang of desperate thieves made their escape from the prison of the city at Porto Rico, as also that every search had been made here on shore, as well as in the harbour, and nothing discovered, except that the goods stolen had been carried off by the sea side, induced us to recommend to those gentlemen sending down a person to Faxardo, as being probable the means of tracing the robbers.

Desirous of assisting our friends, Messrs. Cabot, Baily & Co. in

this object, we gave one of their Clerks, and whom we understood was to go down in the U. S. schooner Beagle, a letter of recommendation to our friend, Mr. Juan Campos, in Faxardo, who had on former occasions of the same nature, been the means of discovering the property and perpetrators; namely, in the case of Messrs. Ellis, Gibson & Co. and our own.

We have the honour to be, with sentiments of the highest regard, sir, your obedient humble servant.

Signed, BERGEEST & WHLHORN.

ST. THOMAS, 11*th Nov.* 1824.

To Commodore DAVID PORTER.

NAVY DEPARTMENT, 2*d May*, 1825.

I certify that the foregoing is a correct copy of an enclosure contained in a letter from Com. D. Porter to the Secretary of the Navy, dated 1st January, 1825.

Signed, CHAS. HAY, *Chief Clerk.*

(Copy.) No. 5.

UNITED STATES' SCHOONER BEAGLE,

ST. THOMAS, 11*th November*, 1824.

SIR: At 10 in the morning of the 26th October last, I received intelligence that the American Consul's store had been forcibly entered on the preceding night, and robbed of goods to the amount of $5,000 dollars. With this report, the American consul requested me, provided it would prove consistent with my duties, to sail in quest of those whom it was supposed had clandestinely left the harbour the night preceding in a small boat, and generally believed by those acquainted in St. Thomas, to have proceeded to the port of Faxardo, on the east end of Porto Rico. I directly gave the necessary orders to prepare for sea; having received a good pilot on board, I was enabled by noon to proceed in quest of the marauders.

Standing along the south side of Crabb Island, I discovered a sloop in Settlement Bay; boarded her, and received information of a piratical sloop-rigged boat to leeward, that had been for sometime past infesting the coast. This information induced me to alter my course, and steer for the west end of Crabb Island. At 10, A. M. discovered a sloop beating to windward, and the small sloop-rigged boat standing from the land; at 10.50, fired a shot to bring the sloop to; at 10.55 fired again; she hove about and stood for the land; spoke the sloop from St. Croix, bound to St. Thomas; made all sail for the sloop boat which run into ——— Bay, and her crew abandoned her. At 11.50 came to, and took possession of the deserted boat; at 11.55 made sail, and stood for the south-east end of Porto Rico; at sunset, came to in the harbour of Port Faxardo.

On the morning of the 27th, a Creole visited me from the shore, who bore an invitation from the commandant to me to visit him.—At 7, A. M. in company with Lieutenant Ritchie, the Pilot, and the Consul's clerk, I landed. For our better success, we appeared in

the characters of citizens; on my reaching the shore, the register of my vessel was demanded; I explained the object of my visit, and the policy of appearing in disguise. This, however, proved of no avail—I was not allowed to proceed to Faxardo. Supposing that the person who made these demands had no authority to detain me, I, in company with Lieutenant Ritchie, proceeded to the port of Faxardo, and explained, in the most satisfactory manner, to the Captain of the Port, the object of my visit, and produced a private letter from Mr. Cabot, American Consul, to a merchant in that place, in relation to the service in which we were engaged.

Having observed the necessary forms and ceremonies with regard to the Captain of the Port, we then waited upon the Alcalde, and further acquainted him with our mission, &c. who proffered us every assistance. Having made a few enquiries in some of the retail stores, which had an immediate tendency to bring to light any who may have been engaged in this traffic, we received a positive order to proceed to the Alcalde's house, where we were also received by the Captain of the Port, who damned us as pirates, and requested of me register, papers, &c. I stated I possessed no register; I carried no papers, other than my commission, and that of my officers; we were seized as culprits, and conveyed to prison. To satisfy them of my real character, of which they pretended they had no positive proof, I consented, though repugnant to my feelings, to have my commission sent me. After its production, they declared it a forgery, and again remanded us to prison, declaring he would not release us until he had heard from St. Johns. I then demanded to know what was further required; the reply was, "Your appointment as Lieutenant-commandant of that vessel is what you must produce."

I at first hesitated, and would not comply; but not wishing on my part to commit any action which might have a tendency to disturb the harmony existing between our respective governments, I produced my appointment as Lieutenant-commandant. A council of officers was called, with other citizens of the place, who after having heaped upon us the most shameful outrages, permitted us to depart on board.

I have the honour to be, very respectfully, your obedient serv't,
Signed, CHARLES T. PLATT.

To Commodore DAVID PORTER, *U. S. Navy.*

NAVY DEPARTMENT, *2d May*, 1825.

I certify that the foregoing is a correct copy of an enclosure contained in a letter from Commodore D. Porter, to the Secretary of the Navy, dated 1st January, 1825.

Signed, CHAS. HAY, *Chief Clerk.*

(Copy.) No. 6.

NAVY DEPARTMENT, *February 1st*, 1823.

SIR: You have been appointed to the command of a squadron fitted out under an act of Congress of the 20th December last, to

cruise in the West India seas and Gulf of Mexico, for the purpose of suppressing piracy, and affording effectual protection to the citizens and commerce of the United States. Your attention will also be extended to the suppression of the slave trade, according to the provisions of the several acts of Congress on that subject; copies of which, and of the instructions heretofore given to our Naval commanders thereon, are herewith sent to you. While it is your duty to protect our commerce against all unlawful interruption, and to guard the rights, both of person and property of the citizens of the United States, wherever it shall become necessary, you will observe the utmost caution not to encroach upon the rights of others; and should you at any time be brought into discussion, or collision with any foreign power, in relation to such rights, it will be expedient and proper, that the same should be conducted with as much moderation and forbearance, as is consistent with the honour of your country, and the just claims of its citizens.

Should you in your cruise, fall in with any foreign naval force, engaged in the suppression of piracy, it is desirable that harmony, and a good understanding, should be cultivated between you; and you will do every thing on your part, that accords with the honour of the American flag, to promote this object. So soon as the vessels at Norfolk shall be ready for sea, you will proceed to the West Indies, by such route as you shall judge best, for the purpose of effecting the object of your cruise. You will establish at Thompson's Island, usually called Key West, a depot, and land the ordnance and marines to protect the stores and provisions; if, however, you shall find any important objection to this place, and a more suitable and convenient one can be found, you are at liberty to select it as a depot.

You will announce your arrival and object to the authorities, civil and military, of the Island of Cuba, and endeavour to obtain, as far as shall be practicable, their co-operation; or at least their favourable and friendly support, giving them the most unequivocal assurance, that your sole object is the destruction of pirates.

The system of piracy, which has grown up in the West Indies, has obviously arisen from the war between Spain and the New Governments, her late provinces in that hemisphere, and from the limited force in the islands, and their sparse population, many portions of each, being entirely uninhabited and desolate, to which the active authority of the government does not extend. It is understood that establishments have been made by parties of these banditti, in those uninhabited parts, to which they carry their plunder, and retreat in time of danger. It cannot be presumed that the government of any island will afford any protection or countenance to such robbers. It may, on the contrary, confidently be believed, that all governments, and particularly those most exposed, will afford all means in their power for their suppression.

Pirates are considered by the law of nations the enemies of the human race. It is the duty of all nations to put them down; and

none who respect their own character or interest will refuse to do it, much less afford them assistance and protection. The nation that makes the greatest exertions to suppress such banditti, has the greatest merit.

In making such exertions, it has a right to the aid of every other power, to the extent of its means, and to the enjoyment, under its sanction, of all its rights in the pursuit of the object. In the case of belligerents, where the army of one party enters the territory of a neutral power, the army of the other has a right to follow it there. In the case of pirates, the right of the armed force of one power, to follow them into the territory of the other, is more complete. In regard to pirates, there is no neutral party, they being the enemies of the human race, all nations are parties against them, and may be considered as allies. The object and intention of our government is to respect the feelings, as well as the rights of others, both in substance and in form, in all the measures which may be adopted, to accomplish the end in view. Should, therefore, the crews of any vessels which you have seen engaged in acts of piracy, or which you have just cause to suspect of being of that character, retreat into the ports, harbours, or settled parts of the islands, you may enter in pursuit of them, such ports, harbours and settled parts of the country, for the purpose of aiding the local authorities, or people, as the case may be, to seize and bring the offenders to justice, previously giving notice that this is your sole object. Where the Government exists, and is felt, you will in all instances respect the local authorities, and only act in aid of, and co-operation with them; it being the exclusive purpose of the government of the United States to suppress piracy; an object in which all nations are equally interested; and in the accomplishment of which, the Spanish authorities, and people will, it is presumed, cordially co-operate with you.

If, in the pursuit of pirates found at sea, they shall retreat into the unsettled parts of the islands, or foreign territory, you are at liberty to pursue them so long, only, as there is reasonable prospect of being able to apprehend them, and in no case, are you at liberty to pursue and apprehend any one after having been forbidden so to do, by competent authority of the local government. And should you on such pursuit apprehend any pirates upon land, you will deliver them over to the proper authority, to be dealt with according to law, and you will furnish such evidence as shall be in your power to prove the offence alleged against them. Should the local authorities refuse to receive and prosecute such persons so apprehended, on your furnishing them with reasonable evidence of their guilt, you will then keep them safely and securely, on board some of the vessels under your command, and report without delay to this Department, the particular circumstances of such cases. Great complaints are made of the interruption and injury to our commerce by privateers fitted out from Spanish ports. You will endeavour to obtain from the Spanish authorities, a list of the vessels so commissioned, and ascertain how far they have been instructed

to intercept our trade with Mexico, and the Colombian Republic; impressing upon them, that, according to the well settled rule of the law of nations, the United States will not consider any portion of coast upon the Gulf of Mexico, as legally blockaded, except where a naval force is stationed, sufficient to carry into effect the blockading order or decree; and that this government does not recognize the right or authority of Spain to interdict or interrupt our commerce with any portion of the coast included within the Colombian Republic or Mexican Government, not actually blockaded by a competent force.

All the United States ships and vessels of war in the West Indies, of which a list is herewith enclosed, are placed under your command, and you will distribute them to such stations as shall appear to you best calculated to afford complete protection to our commerce, in which you will embrace the object of protecting the convoy of specie from Vera Cruz, and the Mexican coast generally, to the United States. Keep one vessel at least upon this service, to be at, or near, Vera Cruz, during the healthy season of the year, and to be relieved as occasion shall require, both for convoy of trade, and to bring specie to the United States—confining the transportation to the United States only. You will be particularly watchful to preserve the health of the officers and crew under your command, and to guard, in every possible manner, against the unhealthiness of the climate; not permitting any intercourse with the shore where the yellow fever prevails, except in cases of absolute necessity.

Wishing you good health, and a successful cruise, I am, very respectfully, &c. Signed, SMITH THOMPSON.

Comm'e DAVID PORTER, *Comm'g U. S. Naval Forces, West Indies.*

NAVY DEPARTMENT, *2d May*, 1825.

I certify that the foregoing is a correct transcript from the records of this Department.

Signed, CHAS. HAY, *Chief Clerk.*

(Copy.) No. 7.

MARINE BARRACKS, ALLENTON, THOMPSON'S ISLAND,
February 6th, 1825.

I, Thomas B. Barton, first Lieutenant of Marines in the service of the United States, and commanding the Marines on this station, do make the following statement of facts, in relation to the proceedings of Commodore David Porter, commander in chief of the Naval Forces of the United States, in the West Indies, &c. at Faxardo, in the Island of Porto Rico, in the month of November, 1824.

The United States schooner Grampus, bearing the broad pendant of Commodore Porter, with the U. S. schooner Beagle in company, arrived in the harbour of Faxardo on the 14th November, 1824, about 8 o'clock, A. M. I was a passenger in the Grampus. Both vessels entered the harbour with the U. S. ensign displayed. We had scarcely let go our anchor, which was done directly opposite a

two gun battery on the summit of a hill, elevated perhaps eighty feet above the level of the ocean, when I perceived twenty or more men in the battery, loading and training the guns in the direction of the Grampus. I soon after received orders through Lieut. Sloat, commandant of the schooner, to be in readiness to command the Marine guard attached to her, fourteen in number, and to proceed in the launch, the largest boat of the Grampus, with Lieutenant Pendergrast, her first Lieutenant.

The latter officer received the following orders, in substance, from Commodore Porter, in my presence: To proceed in the direction of the two gun battery, directly opposite, and land the men under his command at as little hazard as possible. To take the battery, spike the guns, and destroy the ammunition; and then pursue the direction of the main body, under the command of the Commodore in person. Lieutenant Pendergrast was particularly ordered not to fire a gun, unless he met with resistance; and not to permit the men to commit any depredation upon persons or property.

We then pulled off from the Grampus, in a direction for the battery, and perceiving that they were training their guns, one to bear on the Grampus, and one on our launch, we made the best of our way to effect a landing in the rear of the fort, which we succeeded in doing in so short a space of time, that they could not bring the gun to bear on us, which they were using every exertion to do.

Having succeeded in landing in rear of the battery, we mounted the hill with muskets, pistols, and cutlasses, and discovered the works to be that moment deserted by the Spaniards. We took quiet possession, and found two long eighteen pounders, one of them charged with a cartridge of powder and round shot, and a canister filled with grape shot, musket balls and spikes, the gun primed, and a *lighted* match placed near it. The other gun was partly charged, but was deserted before the loading of her was completed.

Agreeably to orders, we spiked the guns with files; and finding one or two charges of powder, and a canister with grape, musket balls, and spikes, alongside one of the guns—the ammunition was destroyed.

After having secured the battery conformably to orders, we reembarked in our launch, and proceeded in the direction of the main body, which had landed near the road leading to the town of Faxardo.

After we reached the landing, I was ordered by Commodore Porter to remain with a guard under my command, to protect the boats during his absence with the main body; and I was particularly ordered to permit no man of my guard, upon any consideration, to commit depredations upon the inhabitants or their property, which order was obeyed.

Signed, THOS. B. BARTON, *Lt. Comm'g Marines.*

Sworn before me this 7th of February, 1825,

Signed, JNO. R. MIFFLIN,

A Justice of the Peace in and for the County Monroe, Territory of Florida

(Copy.) B.

GENTLEMEN OF THE COURT: Before you proceed to investigate the subject submitted to you, allow me to make a few remarks on the character of the precept which authorizes your forming yourselves into a Court, and the nature of the duties which it imposes on you.

As regards the first charge against me, submitted to your investigation, I have nothing at present to say; the Secretary of the Navy having preferred it against me, he has a perfect right to couch it in whatever language may appear to him most proper to obtain the end he has in view. The mere statement of the charge, however forcible the terms, is no proof of my guilt; and it remains for me to oppose to it the proofs I have in my possession; sufficient, I trust, to show, that my conduct in landing in a hostile manner on the shores of Porto Rico, was not only justifiable, but praiseworthy.

It is however a duty I especially owe to myself and to others under my command, to notice the manner in which the second subject is submitted to your investigation, to wit: the carrying of specie, &c. You will perceive that it is admitted in the precept, that the investigation of this subject is ordered at my particular request, and this being the case, it would seem but just, that the request should be complied with, according to its terms.

My request, as contained in my letter to the Secretary of the Navy of the 2d of March, is in the following words—

"Having this day seen in a print, several letters from Mr. Thomas Randall, and Mr. John Mountain, communicated through the State Department to Congress, and highly injurious to the character of myself and other officers belonging to the West India Squadron, I have to request that an inquiry may be instituted, to ascertain how far facts will justify their statements and remarks, and the injurious remarks they have elicited on the floor of Congress."

You will perceive, by a perusal of the precept, that your attention is not directed to the inquiry asked for by me. You find nothing said of the particular documents referred to, or the persons named in my application;—you are not directed to inquire how far facts will justify *their statements and remarks, and the injurious remarks they have elicited on the floor of Congress.* You are in fact, not directed to extend the inquiry, so as to ascertain how far others, as well as myself, were implicated in transactions, which if true, were highly disreputable to all concerned; but you are simply required to ascertain whether the Naval force in the West Indies and Gulf of Mexico, *was* employed to the best advantage; whether it was not employed in the transportation of Specie, and in other objects of inferior moment, to the neglect of the public interest. I beg you to compare the charge as it stands in the precept, with my request, and say if you can find the slightest resemblance between them. I am not very particular as to the manner in which this charge has been worded; but, as some of the vessels under my com-

you would have been able to have come to a satisfactory conclusion; but confining yourself to the subject as presented to you in the precept before you, there can be no decision touching the point at issue, between Messrs. Randall and Mountain, and myself and officers.

I have taken the liberty to make these remarks at this early period, with the hope that you would, by applying to the Secretary of the Navy, obtain a revision or modification of the precept, so as to enable you to reach the object which induced me to ask the inquiry; or, at least, that such measures might be taken, as may seem to you expedient, to enable you to effect the purpose which caused me to make the application for an investigation of the truth of the charges.

I beg the Court to be persuaded that these remarks, and this request, originated in no wish to embarrass, or throw difficulties in the way of the inquiry; but from a sincere desire, that the accusers may have every opportunity of proving their charges, and the accused the advantage of rebutting them; that truth may be made known, and justice obtained; the only end and object, it is presumed, of the investigation. I beg leave to state further, that it was not my intention to make, under any circumstances whatever, objections to any member who the Secretary of the Navy might think proper to order on this Court, and I should now waive all objections, was my conduct, alone, the subject of inquiry; but since the Secretary has chosen, by the same precept, to submit to you charges against me, originating with himself, and the investigation of the conduct of myself and others, asked for by me, it is a duty I owe to others, to guard by every means in my power against a decision injurious to them.

It has not escaped your observation, there are two members of this Court junior to me. This however, at first sight, may not by many be considered a reasonable ground of objection, as the act for the better government of the Navy, only requires three commissioned officers, and a Judge Advocate, to constitute a Court of Inquiry; but I think it must be apparent, that the intention of the framers of the law was, that with the exception of the difference of the members which composed them, Courts of Inquiry should be formed, regulated and governed, on the same principles as Courts Martial.

A Court Martial may consist of from five to thirteen members, but it is required that not more than one half of the members, if it can be avoided, shall be junior to the officer tried; this rule no doubt was intended to prevent the interested feelings of the junior members from operating to the prejudice of the officer to be tried, and the same rule should in justice govern Courts of Inquiry; Courts of Inquiry having the same power to summons witnesses, administer oaths and punish contempt, it was evidently designed that they should be similarly constituted. By every rule and principle of justice, the accused should be tried by disinterested juniors, or at least a majority of them.

Will it be contended that, because the law requires three commissioned officers to constitute a Court of Inquiry, that three commissioned officers, from any of the subordinate classes, would be a sufficient Court to investigate and report on the conduct of the commander of a Squadron? Lieutenants, Pursers, Chaplains, Surgeons, and I believe, Surgeon's Mates, are commissioned officers; but surely it will not be asserted, that a sufficient Court for the investigation of my conduct could be formed of these classes. It was therefore evidently designed, that only such commissioned officers as may legally set on a Court Martial, can set on a Court of Inquiry; and that Courts of Inquiry, should not only be similar in their organization, but also formed of the same materials as Courts Martial.

With this view of the subject, I feel that I should not do my duty to others, *considering the fearful odds I have to contend against*, if I did not submit to the Court whether, with a majority junior to myself, it can legally proceed to investigate my conduct. That the Court is formed agreeable to the letter of the law, I cannot deny, nor could I, were it formed of any of the subordinate classes I have mentioned. But, whether it is formed according to its *spirit* and *intention*, and *on principles of justice*, is the question I beg leave to submit to you.

(Copy.) C.

NAVY-YARD, WASHINGTON, *May 2d*, 1825.

SIR: I am instructed by the Court of Inquiry, convened to investigate the conduct of Captain David Porter, to inform you that the Court was this day organized, in pursuance of the precept in the case, and that after the members were duly sworn, Captain Porter read to the Court a certain paper herewith transmitted for your consideration. You will perceive that an exception is taken to the Court itself, as not composed of competent members.

This objection applies to a majority of the Court, and they consequently feel a delicacy in determining a question involving their own competency. The Court, therefore, has deemed it correct, to submit the questions thus raised, to your determination; and to adjourn the Court for the purpose of obtaining your opinion, before proceeding in the investigation.

Very respectfully, your obedient servant,

Signed, RICH'D S. COXE, *Judge Advocate.*

The Hon. SAMUEL L. SOUTHARD, *Secretary of the Navy.*

(Copy.) D.

NAVY DEPARTMENT, *3d May*, 1825.

SIR: Your letter of yesterday's date, communicating the paper submitted to the Court by Captain D. Porter, has been received.

If it was the intention of Captain Porter to present a challenge, or offer a specific legal exception, to any member, the proper tribunal

for its decision was the Court itself—the proper time was before the members were sworn.

If, as is presumed, he designed to complain of the manner in which the Court was composed, as unjust or illegal, he ought, before the meeting of the Court, to have applied to the Department, which alone possessed the power of affording a remedy.

A copy of the precept, stating the names of the officers who were to compose the Court, and the object of inquiry, was furnished to him on the 20th day of April last.

As, however, you have deemed it correct to "submit the questions raised" by Captain Porter, to "my determination," it is proper to add, that the opinion of the Department as to the legality of constituting the Court with three Captains, of the same rank with Captain Porter, one being senior, and two junior, to himself, was necessarily expressed in the very act which created and convened the Court; and no argument is discovered, in the paper submitted, calculated to change that opinion.

As it is not supposed that the Court possesses the power to decide on the form of the precept, the objects for which it should have been convened, or those into which it would be proper to inquire, the reason and design of the comment which is made on the form and words of the precept, are not distinctly perceived, and may be totally misapprehended.

If its form seemed incorrect to Captain Porter, or not calculated to meet the objects which he had in asking for an inquiry, the Department, which alone possessed the power to alter the form of the precept, and change the scope of the investigation, ought to have been addressed on the subject.

The President of the United States having thought proper to order an investigation into the the transactions at Faxardo, it was the duty of the Department so to frame the precept as to meet that object; and it is believed that the Court will find no difficulty in comprehending what is directed on that point.

The inquiry relating to some other parts of the conduct of Captain Porter, while commanding the squadron in the West Indies, was granted at his request, and was intended to be so general, as to permit him the utmost latitude in proving what had been his conduct on any particular point which he might select; and shewing that he was free from all just cause of accusation, by whomsoever made. If the words be not sufficiently broad to permit such an investigation, they would heretofore have been promptly extended, at his request, and no difficulty will now be made, should he request it, in so directing the Court as to accomplish his object. The defect on this point, if one exist, is not perceived.

It was not the intention of the Department, at the suggestion or solicitation of Captain Porter, to direct the Court to inquire into the conduct of other officers, of whose actions the Department saw no cause to complain; who had not asked for any inquiry; and for whom, it was not perceived that he had any authority to demand it.

Much less was it the intention of the Department, on an inquiry asked by him, to submit to the Court the legality or the propriety of the orders given to him: nor is it believed that the precept can bear any such construction.

With this view of the matters contained in the papers submitted, the Department has only to direct, that the Court, constituted as it is, proceed to make the inquiry directed by the precept.

I am, respectfully, yours, &c. &c.

Signed, SAM'L L. SOUTHARD.

RICHARD S. COXE, Esq., *Judge Advocate of the Naval Court of Inquiry, at the Navy-Yard, Washington.*

(Copy.) E.*

GENTLEMEN OF THE COURT: Before proceeding to the examination of any witness in my defence, I must beg leave to enter my protest against the decision of the Secretary of the Navy as regards the legality of the formation of the Court. A question of law and justice, on which the Court, *either* from *incompetency* or delicacy are unwilling to come to a decision, should not be decided on by the officer with whom the *illegality* and *injustice* complained of is supposed to have originated. A question of the importance of the one submitted to you, I was impressed with a belief, at the time of presenting it, would be, and am still of the opinion should be, submitted to the Attorney General of the United States, if the Court from any cause, was unwilling to take the responsibility on itself. And, in order that I may not be supposed to have given my assent to any circumstance, which by any tribunal hereafter, may be supposed to vitiate the legality of your proceedings, I must beg leave to decline taking any part whatever in this investigation, until the question I have submitted to you is decided on by competent authority. A question not originating in any captious disposition on my part to create difficulties, as it would appear from the quotation in the Secretary's letter, is supposed to be the cause, but from a sincere desire that every proceeding in the case should be conducted according to the strictest principles of law and justice.

If an error, as is intimated, was committed in point of form, in the time taken to state my objection, the Court will no doubt recollect that the error did not originate with me. I apprised the members assembled before its formation of my intention, and adopted the time suggested to me by the Judge Advocate. But even if an error had been committed by me merely in point of form, is it just, considering all circumstances, that the *party opposed to me should avail itself* of this error to my disadvantage, when no intimation whatever of the error was made to me, at any time, either by the Court, or its law advisor.

That I did not apply to the Department before the meeting of the Court, to remedy the evil complained of, scarcely needs an explanation; *if it does, you have it now in the decision of the Secretary.*

I feel it due to myself, in making this protest, to place on the re-

* As with the objectionable matter underscored by the Court.

to intercept our trade with Mexico, and the Colombian Republic; impressing upon them, that, according to the well settled rule of the law of nations, the United States will not consider any portion of coast upon the Gulf of Mexico, as legally blockaded, except where a naval force is stationed, sufficient to carry into effect the blockading order or decree; and that this government does not recognize the right or authority of Spain to interdict or interrupt our commerce with any portion of the coast included within the Colombian Republic or Mexican Government, not actually blockaded by a competent force.

All the United States ships and vessels of war in the West Indies, of which a list is herewith enclosed, are placed under your command, and you will distribute them to such stations as shall appear to you best calculated to afford complete protection to our commerce, in which you will embrace the object of protecting the convoy of specie from Vera Cruz, and the Mexican coast generally, to the United States. Keep one vessel at least upon this service, to be at, or near, Vera Cruz, during the healthy season of the year, and to be relieved as occasion shall require, both for convoy of trade, and to bring specie to the United States—confining the transportation to the United States only. You will be particularly watchful to preserve the health of the officers and crew under your command, and to guard, in every possible manner, against the unhealthiness of the climate; not permitting any intercourse with the shore where the yellow fever prevails, except in cases of absolute necessity.

Wishing you good health, and a successful cruise, I am, very respectfully, &c. Signed, SMITH THOMPSON.

Comm'e DAVID PORTER, *Comm'g U. S. Naval Forces, West Indies.*

NAVY DEPARTMENT, *2d May*, 1825.

I certify that the foregoing is a correct transcript from the records of this Department.

Signed, CHAS. HAY, *Chief Clerk.*

(Copy.) No. 7.

MARINE BARRACKS, ALLENTON, THOMPSON'S ISLAND,
February 6th, 1825.

I, Thomas B. Barton, first Lieutenant of Marines in the service of the United States, and commanding the Marines on this station, do make the following statement of facts, in relation to the proceedings of Commodore David Porter, commander in chief of the Naval Forces of the United States, in the West Indies, &c. at Faxardo, in the Island of Porto Rico, in the month of November, 1824.

The United States schooner Grampus, bearing the broad pendant of Commodore Porter, with the U. S. schooner Beagle in company, arrived in the harbour of Faxardo on the 14th November, 1824, about 8 o'clock, A. M. I was a passenger in the Grampus. Both vessels entered the harbour with the U. S. ensign displayed. We had scarcely let go our anchor, which was done directly opposite a

appear from the quotation in the Secretary's letter, is supposed to be the case, but from a sincere desire that every proceeding in the case, should be conducted according to the strictest principles of law and justice.

If an error, as is intimated, was committed in point of form, in the time taken to state my objection, the Court will no doubt recollect, that the error did not originate with me. I apprized the members assembled before its formation, of my intention, and adopted the time suggested to me by the Judge Advocate. But even if an error had been committed by me, merely in point of form, is it just, considering all circumstances, that the party opposed to me should avail itself of this error to my disadvantage, when no intimation whatever of the error was made to me, at any time, either by the Court, or its law adviser.

That I did not apply to the Department before the meeting of the Court, to remedy the evil complained of, scarcely needs an explanation; if it does, you have it now in the decision of the Secretary.

I feel it due to myself, in making this protest, to place on the record, my reply to the intimation, that the precept would have been changed, on my application, before the meeting of the Court.

You have already been made acquainted with the language used in my application for the investigation sought for by me; it is, therefore, unnecessary to repeat it. The Secretary, in what purports to be his reply, dated on the 16th of March, states as follows:

"It has become my duty to apprize you of the determination of the Executive, that a Court of Inquiry will be formed, as soon as circumstances will permit, to examine into the occurrence at Faxardo, which was the occasion of your recal, and also to comply with the request contained in your letter of the 8th inst."

I must observe that I understood the Secretary to mean by the letter of the 8th, my letter of the 2d, as I never made any request of him in any letter of that date, relating to the subjects submitted to you. Confiding in the assurance of his reply, I was greatly surprised at the wording of the precept, and I must leave you to decide whether, after it had been issued, the Court was not the proper medium, through which I was bound to communicate with the Secretary.

I will further remark, that in the letter accompanying the precept, the Secretary, from some objections to the style of my letter, thought proper to remind me of the relation which subsists between me and the Department, and not willing that offence should in future be taken when none was intended, or to incur a similar reproof when none was deserved, I thought it safest, on my own account, that all my communications should, in future, be made to you, and through you.

(Copy.) F.

WASHINGTON, *May 5th*, 1825.

GENTLEMEN OF THE COURT: Having carefully perused the pa-

per commented on by the Court, on account of which it has thought proper to pass censure, and not being able to detect in it a single expression which bears the construction the Court has thought proper to place on it, I cannot consent by any alteration on my part, to admit that by it any disrespect was intended by me, either to the Court, or the head of the Navy Department; and it is the cause of great surprise to me, that the Court should have entertained such an opinion.

The Court having thought proper to underscore, as disrespectful, the word *incompetency*, as used by me in relation to it, I beg to state distinctly, that the word was not used in regard to intellectual incompetency, and in no other sense could it be offensive; but with respect to its legal incompetency, (in the opposite sense in which the Court itself applied the word competency,) which was supposed to be admitted, when the subject was referred to the Secretary for his decision. Delicacy, I did not conceive to be the only motive for the course taken by the Court, as I did not believe it a sufficient and satisfactory one; being under the impression that it was the duty of every officer to perform the service confided to him, however delicate, provided it be legal.

The declining to make a decision on my first application, and referring the subject to the Secretary of the Navy, was, as I supposed, an admission of the incompetency of the Court to decide, or a voluntary relinquishment of its right, if it possessed it; a right, which I am of opinion, the Court cannot again resume, after the opinion of the Secretary is, at its request, made known.

If the Court had the right to decide in the first instance, no delicacy should have prevented its decision; but relinquishing its right, I am under the impression it cannot resume it to decide now as to its legality, and I cannot acquiesce, either in *its* power to decide, the propriety of the decision it has come to, or the rule it has established with regard to the course it has thought proper to adopt towards me.

If I am not permitted to appear before the Court on terms of perfect equality with my accusers, whoever they be, and to defend myself in the way which may appear to me the most proper, (always observing due respect to the Court and the Secretary,) I must, in justice to myself, decline offering any defence, which may be liable to be weakened by an interposition on the part of this or any other tribunal.

With this remark, I beg leave to adhere to the determination expressed in the paper on which the Court has animadverted with so much, and I think, with such undeserved severity.

I have the honour to return to the Court, a copy of the paper commented on, underscored, and marked by it as objectionable, together with a copy as it was submitted by me to the Court.

I have the honour to be, with sentiments of the highest respect, the Court's very obedient servant,

Signed, D. PORTER.

The President and Members of the Court of Inquiry, now in session.

(Copy.) G.

NAVY DEPARTMENT, *May 7th*, 1825.

SIR: I received yesterday from Captain David Porter, a letter transmitting a number of papers which he designates as "original "letters and depositions, respecting transactions at Faxardo, and "the piratical character of the place." His letter is dated, no doubt, by mistake, "March 6th, 1825."

It is supposed to be the wish of Captain Porter, that these papers should be laid before the Court of Inquiry for its consideration. They are therefore, with a copy of his letter, enclosed to you for that purpose.

I also enclose for the same purpose, certain papers in the Spanish language, received through the Department of State from Mr. Salmon, Charge des Affairs of the government of Spain, in this country.

They are accompanied by translations.

I am, respectfully, sir, your ob't serv't.

Signed, SAM'L L. SOUTHARD.

RICHARD S. COXE, *Esqr. Judge Advocate, present.*

(Copy.) H.

NAVY YARD, WASHINGTON, *May 9th*, 1825.

SIR: I am instructed by the Court, to transmit to you, agreeably to the directions of the precept, the report of the result of the investigation, which has been made into the conduct of Captain David Porter, in landing with an armed force on the island of Porto Rico, in November last.

Having no evidence to lay before the Court, in regard to the second branch of the investigation directed to be made; and Captain Porter, having declined taking any part in the investigation, and entered his protest against the competency of the Court, I am also instructed to inform you, that it has nothing before it at this time, and has adjourned until to-morrow morning, at 11 o'clock.

Very respectfully, your obe'dt serv't.

Signed, RICH'D S. COXE, *Judge Advocate.*

The Honourable SAMUEL L. SOUTHARD, *Secretary of the Navy.*

I certify that the foregoing is a true copy of the record of the proceedings in the foregoing case on file in this Department.

CHAS. HAY, *Chief Clerk.*

NAVY DEPARTMENT, *6th July*, 1825.

PROCEEDINGS

OF THE COURT OF INQUIRY,

IN RELATION TO THE

TRANSPORTATION OF SPECIE.

TUESDAY, MAY 10TH.

THE Court met pursuant to the adjournment of yesterday : present all the members of the Court, and the Judge Advocate. No answer having been received to the communication made yesterday to the Secretary of the Navy, the Court adjourned till to-morrow morning, at 11 o'clock.

WEDNESDAY, MAY 11TH.

The Court met pursuant to the adjournment of yesterday : present all the members of the Court, the Judge Advocate, and Captain Porter. The Judge Advocate submitted to the Court a communication from the Honourable the Secretary of the Navy, which was read, annexed to the record, and marked (I) and sundry documents accompanying it. The reading of the documents was continued until half after three o'clock, when the Court adjourned till 10 o'clock, to-morrow morning.

THURSDAY, MAY 12TH.

The Court met pursuant to the adjournment of yesterday : present all the members of the Court, the Judge Advocate, and Captain Porter. The Court proceeded in the reading of the documents, and continued reading the same until 3 o'clock, when the Court adjourned till to-morrow morning, at half past 10 o'clock.

FRIDAY, MAY 13TH.

The Court met pursuant to the adjournment of yesterday : present as before. The Judge Advocate read and submitted to the Court sundry orders from Captain Porter, during his command, annexed to the record.

The Court proceeded to the examination of Thomas Randall, Esq. who, being duly sworn, according to law, deposes and says—

Q. In what public capacity did you visit the Island of Cuba, in the year 1824 ? when did you arrive there ? and how long did you remain ?

A. The official duties enjoined upon me, on going to the Island of Cuba, were various. The principal related to reclamations, to

be made on the authorities of the Island, arising out of captures made by privateers from Porto Rico and Porto Cabello. Appeals in which cases had been carried up to Courts in the Island of Cuba. I was also charged with demanding certain papers and documents from the authorities of the Island, to be used before the Commissioners under the Florida Treaty. I held also the appointment of Commissary, (a separate one) for demanding the archives and accounts under the Florida Treaty. I was also charged with certain confidential duties, which it is unnecessary to mention, as they have no relation to the present subject of inquiry.

The instruction contained in the printed document contains all that I received from the Government on the subject of piracy, and was considered wholly incidental, not forming one of the objects of my visit. I arrived at Havana on the 3d May, 1824, and sailed from the Island on or about the 9th of November, to the best of my recollection. I was upon the Island during the whole of that period, with the exception of about a week, consumed in a voyage to Matanzas, via Key West, in the schooner Terrier.

Q. Do the printed documents shewn you contain your despatches to the Government.

A. Yes; there may be some verbal inaccuracies, but, with that exception, they contain all that I wrote upon the subject of piracy to any one.

Q. At the time you were in the Island of Cuba, were you acquainted with the instructions under which Commodore Porter was acting?

A. No.

Q. From what sources did you obtain the information you communicated? were they official or private?

A. The sources were various: sometimes from casual conversations; sometimes from one gentleman; sometimes from another. My object was to obtain such information as I could rely upon, from whatever quarter it could be had. I endeavoured to exercise a discriminating judgment as to the credit which was to be given to the sources from which the information was obtained;—and I believe that I have usually stated to the Government the amount of credit to which the different facts which I communicated, were, in my opinion, entitled. The information was spontaneously communicated to me, conceiving it to be a subordinate part of my business, and being very much occupied, and sometimes sick, I did not search for information upon this head. I did not conceive it to be my duty to seek for information regarding the navy; but I conceived it my duty, when facts came to my knowledge, to report them.

Q. During the period of your stay in Cuba, in what description of vessels did the pirates usually go to sea?

A. Generally, I believe, in open boats; sometimes in boats, I believe partially decked—calculated either to row or sail, or both; sometimes in schooners of a larger class.

Q. Were these vessels calculated for a small draught of water,

and were the places from which they could put out and take refuge, numerous, and difficult to find along the coast of Cuba?

A. Such was the information communicated to me, from sources which I deemed authentic.

Q. Could any naval force, however numerous or vigilant, ensure safety at all times from these pirates, without the active aid of the authorities on shore?

A. I have given a deliberate opinion upon that subject, in my communication to the Government, which remains unchanged, but rather confirmed by information subsequently received.

Q. During the spring and summer of 1824, how many vessels were under the command of Commodore Porter? where were they employed, and in what service respectively?

A. I cannot say: I know nothing of the vessels, except from their occasional visits to Cuba, while I was there, and the casual conversations of the officers attached to them. I knew in no other way of their being under the command of Commodore Porter after his return to the United States.

Q. During your stay in Cuba, what American men of war, according to your recollection, touched at the island?

A. While I was at Havana, the John Adams arrived on the 4th May, reported to be last from Matanzas, and sailed about the 6th, for the Bay of Mexico. The schooner Wild Cat arrived from Matanzas on the 24th May, bound to Key West. The Steam-Galliot, with Commodore Porter, arrived on the 12th May, from Matanzas, and sailed, I believe, for the same place, on the same evening May 31st, the Terrier arrived from the same place. On the 16th June, the Spark, reported from Tampico and Alvarado, and sailed on the 22d, for New-York. July 7th, the Grampus arrived off the Moro, reported from the Bay of Mexico, and sailed on or about the 8th, for New-York. July 10th, the Terrier arrived from a cruize after pirates, and sailed the same day. July 12th, the John Adams arrived from the Bay of Mexico, and sailed the 18th, for Philadelphia. On the 20th, one of the small schooners arrived; I did not ascertain which. On the the 29th, the Terrier was in the port—August 3d, she was in port: whether she had been out in the interim, I cannot say. On the 4th, I sailed in her for Matanzas, via Key West, for the benefit of my health. I think I returned about the 30th August to Havana, in the steam-boat. The Fox arrived September 15th, reported from Tampico, and sailed on the 19th, I believe for the United States. On the 17th September, the Weazle arrived from the United States, via Barbadoes, bound to Tampico, as reported. The 23d, the Ferret, from Key West, for medical aid. October 13th, the Porpoise arrived from the coast of Africa. On the 16th, the Hornet arrived, last from St. Jago. The Shark arrived, I think, about the 4th November, reported from the Bay of Mexico; I think from Alvarado and Tampico. She had also previously arrived from the United States, on her way to the Bay of Mexico, date not recollected. There may have been other ar-

rivals and departures without my knowledge; but I have a memorandum from my journal of those which I have stated.

Q. How many, and which, of these vessels carried specie? what amount? where from? and where bound, as you understood at the time?

A. I am uninformed in most of the cases of any particulars as to the amount of specie. I learned generally that most of the vessels arriving at Havana from the ports in the bay of Mexico, had specie on board on freight. Captain Gallagher, of the Shark, reported to me that he had $ 127,000 to be delivered at Havana and in the United States. My impression is, that Captain Dallas informed me he had some specie, the amount I do not recollect. Lieut. Ritchie gave me the same information, I think, in regard to his vessel. I heard, also, that the Spark carried specie.

Q. If there is any information which you possess, other than that you have communicated, calculated to elucidate the subject before the Court, will you be good enough to state it?

A. I do not at present recollect any thing in particular. It may, perhaps, be proper to mention, as my impression, that some of the information I obtained relative to the transaction of specie, was derived from Mr. Mountain, the Vice Consul, and acting in the room of Mr. Warner, the Consul, in whose office the negociations, relative to the transportation of specie, were sometimes transacted in my presence.

Q. Do you know of any shipments of specie being made by any of the vessels from Havana?

A. I do not recollect any particular instance, except that I am under the impression that Capt. Gallagher informed me he had received on board the Shark some additional specie at that place. I have also a general impression, that when vessels were about sailing from Havana to the United States, additional sums were put on board them there. I returned to the United States in the Shark.

William B. Finch, a Master Commandant in the Navy of the United States, being duly sworn according to law, deposes and says:

Between November, 1823, and the autumn of 1824, I acted as Captain to the squadron under the command of Commodore Porter. The orders in the order book, in my hand writing, were the general orders which were circulated thro' the squadron. I considered the squadron employed, during the whole period that I was with it, in conformity with the instructions received from the Department. The suppression of piracy, and the protection of commerce, appeared to be the particular objects in view. Some vessels were occasionally despatched for the special purpose of suppressing the slave trade. The vessels which went down the gulf, and carried specie, as well as my recollection serves me, were the John Adams, Captain Dallas; the Grampus, Lieut. Commandant Sloat; the Weazel, Lieut. Commandant Boarman; the Jackall, Lieut. Commandant Lee; the Fox, Lieut. Commandant Ritchie;

the Weazel, Lieut. Commandant Zantzinger. All had orders, as I believe, to receive specie, in subordination to the general duties of the squadron. This was part of the routine in the service. The Shark, Lieut. Stevens, went from the United States direct to that quarter, with agents from the Bank of the United States. This was, I believe, the only instance, in which the carrying specie was the special object. According to my opinion, all the force was employed which the circumstances of the case required, for the suppression of piracy. When we left Matanzas, about the middle of June, for the United States, I do not think there was any appearance of piracy remaining in that quarter, and a sufficient force was left there to keep it down. Two small schooners, the Ferret and the Terrier, were left under the command of Lieutenants Farragut and Paine, with a barge, to look after pirates, and to keep open the communication between Thompson's Island and Cuba. In the then state of things, I thought that force as competent to effect the object as a larger one could have been. I think such was the disposition and feeling of the officers, that if any course had suggested itself as calculated to effect the suppression of piracy, it would have been mentioned to Commodore Porter: but none better calculated to attain that end, was, as I believe, thought of. I believe that it was the universal opinion of the officers, that the force under the command of Commodore Porter could not have been more efficaciously employed.

When I returned to the United States, the Sea Gull alone came; the two vessels mentioned were left there, and other vessels of the squadron would be occasionally arriving at Thompson's Island from different quarters, where they had been cruising.

The Court adjourned till half past ten o'clock, to-morrow morning.

SATURDAY, MAY 14TH.

The Court met pursuant to the adjournment of yesterday: present as before. Alexander J. Dallas, a Master Commandant in the Navy of the United States, being sworn according to law, says:

Q. In what capacity did you serve in the squadron under the command of Commodore Porter, and during what period of time?

A. I was Master Commandant, in command of the John Adams, from some time in November, 1823, till the month of February, 1825, when we arrived in the United States.

Q. On what service were you employed during that period? Produce such orders and instructions as you received.

A. From February, 1824, when we left the United States, until May 2d, 1824, when Commodore Porter, with his family, left the John Adams, that vessel bearing his broad pendant, had been engaged in cruising in the West Indies, say from St. Barts to Key West, running down through the islands. The particular object of this cruise was the destruction of all the pirates, and piratical establishments, as well on the ocean as on shore, that we could meet with. The letter from Captain Porter of April 8th, 1824, contains

a correct history of the cruise till its date. In that letter, Commodore Porter speaks of a small schooner which had taken shelter among the Colorados reefs; this being the only vessel of a suspicious character which we saw during the period of time that he was with me. I will state the circumstances which occurred in relation to her.

On making the schooner, the Commodore at once pronounced her to be of a piratical character, and directed me to haul into the reef and to prepare two quarter boats; his anxiety then induced him to ascend the mizen rigging; on seeing her get under weigh, we ran the ship into three fathoms water on the reef. Finding it dangerous to go further, the boats were lowered down and sent in pursuit.

They were absent some short time, but finding the schooner was getting away from them they were recalled. On their return to the ship, we made sail in company with the convoy, as many as ten or twelve vessels, and proceeded to Thompson's island. Immediately on our arrival at the island, an expedition was fitted out under the command of Captain Wilkinson, composed of the Sea Gull and three barges, two of which were manned and officered from the John Adams. They were directed to proceed, as I understood, in search of the vessel we had seen at the Colorados reef. After some considerable absence, they returned without having been able to detect the vessel. But with information from the shore of her piratical character. Captain Wilkinson's report of the expedition is dated April 24, 1824. Shortly after their return, I was directed to get under weigh and proceed to Matanzas. The Commodore and his family still on board. Off Matanzas on the 2nd May, I received the order of that date, (read and annexed.) Lieutenant Lee, in company with Lieutenant Legare in the Jackall and Wild Cat, in consequence of the failure of the expedition sent after the schooner, and the information communicated by Captain Wilkinson of which I have spoken. were despatched by the Commodore to Cape Catouche where the said schooner was supposed to have sailed to fit out. After performing the duties assigned to them, Lieutenant Lee in the Jackall. was to join me at any point in the Gulf of Mexico which I might direct. I think I directed him to meet me at Alvarado. As relates to the cruise directed in my orders of May 2nd, these orders were fully performed, with the exception of touching at Campeachy; my reasons for not going there were, that I ascertained that my vessel would be obliged to anchor about 25 miles from the land, and the Jackall was about going there, which I considered as superceding the necessity of my visiting that place. I therefore crossed the bank of Yucatan, and went down to Tampico, going as near to Cape Cartouche as I could.

I remained a very short time at Tampico, about three days, when I sailed for Vera Cruz. I arrived at about 9 o'clock off the castle of St. Juan de Ulloa, and hove to for the night. In the morning finding that a strong current had carried me considerably to the eastward, I concluded to stop off Alvarado, where I remained some

few days. At each of these places that I visited, I offered convoy to American vessels, but there were none at the time who required it.

I left Alvarado in a few days, and proceeded to the island of Sacrificios, near Vera Cruz. Finding nothing to detain me there, after remaining about thirty six hours, I returned to Tampico. On my route to Alvarado, I fell in with Lieutenant Lee, whom I left at that place.

On my last visit to Tampico, I remained eight or ten days, and received on board from Mr. Robinson, then partner of the American consul, and since holding himself that office, $ 104,000 in specie, of this about $ 70, 000 was destined to Philadelphia, and the residue to be delivered at Havana. After receiving that money on board, and not considering my cruise as having expired, I sailed for Vera Cruz, when I met with a small English brig of war, from which I received information of some piratical acts that had been committed near a lake called Terminos, on the main near the head of the Gulf, where it was said that pirates had retreated after making a capture. On receiving this information, I immediately got under weigh and proceeded to Alvarado, where I requested of the commandant of marines one of the Mexican gunboats as a loan, not having myself any small vessel, and the draught of the John Adams being too great to permit my approach to the lake. He loaned me the boat, when I officered and manned her. The second night after sailing from Alvarado towards the lake, the gun boat in company, the wind blowing fresh, I was informed by Lieutenant Grimké, who was in command of her, that the mast was sprung. On examination I found myself obliged to return with her to Alvarado, where I delivered her over again to the commandant from whom I had procured her; requesting our consul Mr. Taylor, in case he found that the accident had occurred while the boat was in our possession, to have it replaced.

Having thus lost so much time, and aware of the impossibility of doing any thing with the John Adams alone, from her being unable to approach the shore, I concluded that, as the time had expired which had been allowed for my cruise, to return to the Havana; I arrived at Havana July 12th, and sailed, I think, on the 15th, for Matanzas, where I expected to receive orders from Commodore Porter. I got my orders there, directing me to proceed immediately to New-York. On receiving these orders, I wrote to him the letter, (read and annexed,) and sailed for Philadelphia, where I arrived about the 26th of the same month. After refitting at Philadelphia, and the ship being reported ready for sea, an order was received from Commodore Barron, directing me not to proceed to sea until further orders. An order, dated October 22d, from Commodore Porter, was received, directing me to be ready to proceed immediately to sea on his joining the ship.

The day after receiving the order, late in the evening, Commodore Porter arrived at Newcastle; early the next morning he came on board, and we proceeded to sea. We arrived at St. Bartholo-

mews early in November. After remaining there a short time we proceeded to St. Thomas; from thence to Passage Island; and thence to Faxardo, where the circumstance happened, which I have already fully detailed. From thence, we coasted the Islands down, examining all the places that were suspicious, or which we supposed might shelter pirates of any description—particularly the Island of Cuba, where I do not think that from Cape Maze, on the easternmost end to the Isle of Pines, and the Jardines on the south side at the west end of Cuba, there was a single creek, inlet or bay, of any size or description, which was not carefully examined. The ship being during the day from a mile and a half to two miles from the shore, and the boats constantly engaged in the examination. From thence we proceeded to the Dry Tortugas, anchoring among them, and remained there two or three days. Thence, we proceeded to Thompson's Island. After being some time at Key West, we received a report that some piracies had been committed. An expedition was fitted out, consisting of two barges, manned and officered from the John Adams, and under the command of Lieutenant Grimke. These boats left Thompson's Island and joined the Sea Gull, on board of which was the Commodore, at Havana. On board the Sea Gull was also a part of the marine guard of the John Adams. Previous to the return of the boats, Commodore Porter had received orders from the Navy Department to return to the United States. He selected the John Adams to return in. We were detained until some time in February, in consequence of the absence of the men and officers of the John Adams on the above expedition. We sailed in February, and, towards the end of that month, arrived in Hampton Roads.—One of the boats, officered and manned from the John Adams, did not rejoin us, previous to our sailing for the United States.

Q. During your being in the John Adams, under the command of Commodore Porter, did you carry on freight any other specie than what you have already mentioned?

A. None.

Q. Was that specie shipped entirely by American merchants?

A. It was shipped by Mr. Robertson, an American, and now American Consul at Tampico.

Q. What premium or freight was received on account of such transportation, and how was it appropriated?

A. I believe there was $1899 99 received for the freight, the third of which was paid to Commodore Porter—the residue was my own. The portion paid to the Commodore was paid pursuant to the general custom—not asked or exacted by him.

Q. Was any time consumed at the place where this specie was received—on the passage, or at the port of delivery—in consequence of your vessel being engaged in transporting specie, which would otherwise have been devoted to the suppression of piracy?—or was the vessel in any respect diverted from the course which she would have pursued, had she not carried specie.

per commented on by the Court, on account of which it has thought proper to pass censure, and not being able to detect in it a single expression which bears the construction the Court has thought proper to place on it, I cannot consent by any alteration on my part, to admit that by it any disrespect was intended by me, either to the Court, or the head of the Navy Department; and it is the cause of great surprise to me, that the Court should have entertained such an opinion.

The Court having thought proper to underscore, as disrespectful, the word *incompetency*, as used by me in relation to it, I beg to state distinctly, that the word was not used in regard to intellectual incompetency, and in no other sense could it be offensive; but with respect to its legal incompetency, (in the opposite sense in which the Court itself applied the word competency,) which was supposed to be admitted, when the subject was referred to the Secretary for his decision. Delicacy, I did not conceive to be the only motive for the course taken by the Court, as I did not believe it a sufficient and satisfactory one; being under the impression that it was the duty of every officer to perform the service confided to him, however delicate, provided it be legal.

The declining to make a decision on my first application, and referring the subject to the Secretary of the Navy, was, as I supposed, an admission of the incompetency of the Court to decide, or a voluntary relinquishment of its right, if it possessed it; a right, which I am of opinion, the Court cannot again resume, after the opinion of the Secretary is, at its request, made known.

If the Court had the right to decide in the first instance, no delicacy should have prevented its decision; but relinquishing its right, I am under the impression it cannot resume it to decide now as to its legality, and I cannot acquiesce, either in *its* power to decide, the propriety of the decision it has come to, or the rule it has established with regard to the course it has thought proper to adopt towards me.

If I am not permitted to appear before the Court on terms of perfect equality with my accusers, whoever they be, and to defend myself in the way which may appear to me the most proper, (always observing due respect to the Court and the Secretary,) I must, in justice to myself, decline offering any defence, which may be liable to be weakened by an interposition on the part of this or any other tribunal.

With this remark, I beg leave to adhere to the determination expressed in the paper on which the Court has animadverted with so much, and I think, with such undeserved severity.

I have the honour to return to the Court, a copy of the paper commented on, underscored, and marked by it as objectionable, together with a copy as it was submitted by me to the Court.

I have the honour to be, with sentiments of the highest respect, the Court's very obedient servant,

Signed, D. PORTER

The President and Members of the Court of Inquiry, now in session.

Q. Is there any other matter relating to this inquiry, of which you possess any knowledge? If so, state it fully to the Court.

A. I know of nothing further that is material, unless it may be the letters here presented from me to him, (read and annexed.)

Stephen Cassin, a Captain in the Navy of the United States, being duly sworn according to law, deposes and says:

Q. In what capacity did you serve in the squadron under the command of Captain Porter, and between what periods?

A. I was a Master Commandant, commanding the Peacock from January 1823, with Commodore Porter on board, carrying his broad pendant, and continued so for some months. After he left the Peacock, and shifted his broad pendant to the Sea Gull, I continued in command of the Peacock till, I think, December, 1823.

Q. On what particular service were you employed during that period? Produce such orders and instructions as you received, relating in any manner to the subject of this investigation.

A. I went originally to sea in company with the Shark, the eight small schooners, the Greyhound, Beagle, Terrier, Wild-cat, Ferret, Weazel, Fox, Jackall, attached to the squadron, the Decoy store ship, and the steam Galliot the Sea Gull. We proceeded to St. Thomas, the place of rendezvous—we remained there a day or two. The Commodore despatched two or three of the schooners to proceed down the south side of Porto Rico, to examine the creeks and inlets on that coast. The remainder of the squadron went down the north side of the island, and communicated with the shore of the island of Porto Rico. Thence we proceeded to Aguadilla, anchored and took in water. The Peacock then proceeded down the old Bahama Straights in company with some of the small schooners engaged in the search after pirates, and the examination of the coast. After making the south side of Cuba, we hauled over to Key Verd, where it was supposed some pirates were lurking; but finding none. returned over to the Cuba coast, proceeded down the old Straights, occasionally coming to an anchor at night, keeping near the shore in the day time, engaged in the examination of the coast, and continued down till we arrived at Sugar Key, where we anchored near the shore. We here found two British men-of-war also engaged in the same object, with whom we communicated. By the orders of the Commodore, we got our boats out, manned with eighty men, and commanded by three Lieutenants, proceeded down in company with two schooners inside of the reef, examining the nooks and corners for pirates, and after this proceeded to Matanzas and joined the ship. The vessel was engaged during the same time in examining and coming to an anchor at night. At Matanzas we watered. In the mean time boats were sent out on an expedition to Hidden Harbour, where it was supposed there were some pirates, but they returned without finding any. During their cruise the service was extremely arduous, the men much exposed to the sun by day, and heavy dues at night, with few or no comforts; and were much exhausted by the incessant and severe fatigue. We proceeded

PROCEEDINGS

OF THE COURT OF INQUIRY,

IN RELATION TO THE

TRANSPORTATION OF SPECIE.

TUESDAY, MAY 10TH.

THE Court met pursuant to the adjournment of yesterday: present all the members of the Court, and the Judge Advocate. No answer having been received to the communication made yesterday to the Secretary of the Navy, the Court adjourned till to-morrow morning, at 11 o'clock.

WEDNESDAY, MAY 11TH.

The Court met pursuant to the adjournment of yesterday: present all the members of the Court, the Judge Advocate, and Captain Porter. The Judge Advocate submitted to the Court a communication from the Honourable the Secretary of the Navy, which was read, annexed to the record, and marked (I) and sundry documents accompanying it. The reading of the documents was continued until half after three o'clock, when the Court adjourned till 10 o'clock, to-morrow morning.

THURSDAY, MAY 12TH.

The Court met pursuant to the adjournment of yesterday: present all the members of the Court, the Judge Advocate, and Captain Porter. The Court proceeded in the reading of the documents, and continued reading the same until 3 o'clock, when the Court adjourned till to-morrow morning, at half past 10 o'clock.

FRIDAY, MAY 13TH.

The Court met pursuant to the adjournment of yesterday: present as before. The Judge Advocate read and submitted to the Court sundry orders from Captain Porter, during his command, annexed to the record.

The Court proceeded to the examination of Thomas Randall, Esq. who, being duly sworn, according to law, deposes and says—

Q. In what public capacity did you visit the Island of Cuba, in the year 1824? when did you arrive there? and how long did you remain?

A. The official duties enjoined upon me, on going to the Island of Cuba, were various. The principal related to reclamations, to

MONDAY MORNING, MAY 16TH.

The Court met pursuant to the adjournment of Saturday: present as before. Master Commandant William B. Finch, again called.

Q. During the time you were with the squadron under Captain Porter, was it generally believed and understood that reports were circulated of piratical acts, which had no foundation in truth, for the purpose of distracting the attention of the squadron, or for any other, and for what purpose?

A. I am under the impression that many such reports were circulated that had no foundation in fact: the distracting of the attention of the squadron would be a very probable motive for raising them, but I cannot of course speak positively as to the object designed to be answered. I am also of opinion, that, had we possessed ten times the force we did, it would have been impossible to act upon all these reports, or to answer all the demands that were made.

Q. How many well authenticated instances of piracy do you recollect to have occurred while you were with the squadron, and what was done in those instances?

A. I recollect but one which occurred. It was in the neighbourhood of Matanzas. Lieut. Voorhees was despatched immediately in pursuit of the piratical vessel in the Sea Gull, and succeeded in capturing her in the course of a few hours.

Q. Do you know any thing of an Englishman who keeps a ferry in the neighbourhood of Matanzas, and had you the means of knowing whether that ferry was much used by pirates, or those having intercourse with them?

A. I know the man, and was several times at his house: never heard of any such thing. Commodore Porter and his family resided at the place for some two or three weeks. It was in the month of May and June, 1824, that I was there, and that Commodore Porter resided there.

Q. Had you the superintendance of the granting convoy? State the circumstances under which it was usual to grant it; and what was done.

A. That duty devolved on me at Matanzas. The object was to see vessels off which were leaving the port, and those into port which were coming there. It was usual almost daily for some of the squadron to go out with those which sailed in the morning, when the wind suited, and to return in the evening, with such as were arriving. In some instances convoy was offered, but refused, rather than delay till all the vessels were ready to proceed.

Captain Stephen Cassin—in continuation.

On the 10th May sailed for Havana, in the Peacock, where we arrived on the 11th, and watered. On the 14th sailed for Vera Cruz, in pursuance of the special orders of the date of May 7th, 1823, read and annexed, and arrived on the 21st of the same month. On the 20th June sailed for Tampico, and remained there till July

9th. During these passages I gave chase to and overhauled every suspicious vessel. While in port, I considered that my presence was useful to the American commerce in that vicinity—being the only American armed vessel in that neighbourhood, during a considerable part of the time. July 9th, sailed for Thompson's Island, and arrived there on the 22d of the same month. August 4th, sailed for the Havana—arrived there on the 5th, and remained there till the 9th, when I sailed for Thompson's Island, and arrived there on the 10th. From the 10th August, till September 16th, remained at Thompson's Island, during which period the officers and men were daily engaged in operations on shore—many of them taken with the yellow fever, and died daily. Commodore Porter was himself ill with the fever, and it was judged proper to send the Peacock to the United States, in company with the John Adams : arrived at Norfolk October 1st.

Captain Cassin produced some orders which he received, which were read and annexed.

Q. While under the command of Captain Porter, did you carry any money on freight ?

A. I did. I took on board at Tampico and Vera Cruz, altogether, about 130 or 140 thousand dollars. The greater part was landed at the Havana ; the residue, about 18 or 20 thousand dollars, was sent home from Havana, in some of the small vessels of the squadron.

Q. Was it shipped by American merchants, or by whom ?

A. It was shipped by Mr. Robinson and Mr. Taylor, American Agents at Tampico and Vera Cruz. I do not know who owned it ; these were the persons with whom the business was transacted.

Q. What premium or freight was received for such transportation in the Peacock, and how was it appropriated ?

A. It was 1½ or 2 per cent. One third of the nett proceeds was paid the Commodore—the rest retained by me.

Q. Was any time consumed at the place where the specie was shipped—on the passage, or at the port where the Peacock delivered it—in consequence of her being engaged in the transportation of specie, which could otherwise have been specially devoted to the suppression of piracy ?

A. I was at Vera Cruz during a very unsettled period, and waited there for some time for the purpose of taking specie on board, but I considered the protection afforded to American commerce was as great and as important as if I had been engaged in cruising.

Q. Independently of the carrying of specie, did the general protection of American commerce and property, and the suppression of piracy, require the presence of the vessels of the squadron in the Gulf of Mexico as frequently as they were sent there, and at the places to which they were sent ?

A. I think so certainly.

Q. Were the vessels of the squadron in the practice of affording convoy to American vessels ?

A. Always.

Q. Was every thing done by the squadron to suppress piracy, which you conceive could have been done to attain that object?

A. Every thing I conceive was done which could be done.

Q. Is there any other matter relating to the subject under investigation which you deem material? If so, state it fully to the Court.

A. There is nothing.

Q. During the time that you were under the command of Captain Porter, had you reason to believe that reports were circulated in the West Indies, of piratical acts which were known to have no foundation in truth?

A. I believe such unfounded reports were numerous. I have no doubt many were got up for the purpose of drawing the attention of the squadron from places where the pirates really were.

Francis H. Gregory, a Lieutenant in the Navy of the United States, being duly sworn according to law, deposes and says:

Q. In what capacity did you serve in the squadron under the command of Captain Porter, and between what periods?

A. I commanded the Grampus, joined the Commodore at Key West on the 3d July, 1823, and continued under him till after my return to the United States, in November, 1823. Previous to my joining Commodore Porter, I was out on a cruise, having sailed from New-York in December, 1822, while Commodore Porter was fitting out his squadron, under the orders from the Department, read and annexed to the record.

Q. On what particular service were you employed during that period? Produce such orders and instructions as you received, relating in any manner to this investigation.

A. The Grampus sailed from New-York December 30th, 1823, for Matanzas, cruised about the Grand Bahama Bank a few days, and arrived at Matanzas January 18th, 1823; gave convoy from that port, and touched at Havana the 28th; sailed the same day for the south side of Cuba; experienced a very severe gale from the southward, was disabled, and driven into the Bay of Mexico; arrived on the 19th February, at the mouth of the Mississippi; proceeded to New-Orleans, where I received on board a new mainmast. Sailed under orders from Captain Patterson, read and annexed with convoy for Tobasco. Left the Balize April 24th; anchored off the mouth of the Tobasco May 1st; sailed the 7th for Vera Cruz, with convoy; 9th parted from the convoy, and proceeded directly to Campeachy; continued cruising and giving convoy upon that coast, until want of provisions forced me to go to Havana, where I arrived June 27th, and met the Wild Cat, Lieutenant Skinner, with whom I proceeded to Thompson's Island. A fleet of merchantmen left Havana in company with us. July 3d, arrived at Thompson's Island, where I received Commodore Porter's instructions, dated May 16, read and annexed, being the first communication I had received from him. July 5th, was despatched after a pirate: went

to Key Vacas, and returned on the 10th to Thompson's island. received orders to proceed to Matanzas; sail d on the 16th with barge. On the 19th, despatched the barge with one of the boats c the Grampus, off Point Yaco, before entering the harbour, to cruis among the Keys, and went into Matanzas. Between the 20th an 25th July, Lieut. Platt joined me from Thompson's island, with barge; sent him the same day to windward, to cruise for pirates.— Continued giving convoy, watching every suspicious vessel in th harbour, of which there were several, and keeping the barge cruising along the coast to windward and leeward, until relieved b Commodore Porter's order of the 16th September. While at Ma tanzas, received Lieut. Freelon's report of his proceedings wit the barges, (read and annexed,) and a letter from the merchants c Matanzas, (read and annexed.)

On the 13th October, left the island of Cuba. At that time th Porpoise, Wild Cat, Hornet, and Jackall, were upon the coast, a Matanzas or Havana. Arrived at Tampico October 19th, on the 20t was taken down with the yellow fever. Sailed the 24th with 2 on the sick list; reached Havana on the 6th or 7th Novembe and sailed on the 12th for Norfolk. While at Matanzas, the Wil Cat, Lieutenant Walbert, arrived from the United States. Th Terrier or Ferret, Lieutenant M'Kean; the Jackall, Lieutenan Oellers; Lieutenant Ritchie in the Fox, Lieutenant Newton in th Beagle, Lieutenant Kennon in one of the small schooners, all touch ed at Matanzas, offering convoy, and in several instances sailing wit convoy; but which particular vessels, or the precise periods c their arrivals and departure I cannot recollect. All however oc curred between the 19th September and the 3rd of October, th day on which I left Matanzas for the last time.

Independently of the written instructions received from Commo dore Porter when I was going to Matanzas, I received also verba instructions, in which he stated the importance of the point, th necessity for great activity and vigilance, and was directed to com municate to him in all cases of necessity.

Q. While under the command of Captain Porter, did you carr on freight any, and what amount of specie?

A. When I left Havana for the United States, there was abou six or seven thousand dollars put on board by the American Consu at Havana, belonging to a merchant of Baltimore, which I landed a Norfolk, and deposited in the Bank of the United States at tha place. My proportion of the freight amounted to about eighty o ninety dollars, was given to the Orphan Asylum of Philadelphia the residue was paid to the Commodore: that was all the mone that was ever shipped on board the Grampus in any foreign por during about 27 months that I commanded her.

Q. Did any instances occur in which, by delaying your sailing o varying from your course, opportunities would have occurred t carry specie on freight?

A. When I left the Balize under the orders of Captain Patterson

he gave me verbal instructions to go to Tampico by the 15th May, stating that there would be considerable sums of specie there by that time, and that he would make arrangements about it. On my arrival off the coast of Campeachy, I found several American vessels there in a great deal of alarm; the Captain of one of them had been murdered by the pirates. In consequence of the defenceless state of the commerce, I determined not to go to Tampico, and wrote to that effect to the Consul there, and employed myself in furnishing such protection as I could afford to the vessels in the neighbourhood.

In spite of all my efforts, though I had my boats out in shoal water sometimes as far as eighty or a hundred miles from the vessel, they succeeded in several instances. I received a letter from Captain Patterson, under date of the 4th May, informing me he had made arrangements by which, had I gone to Tampico, I might have taken on board three or four hundred thousand dollars. I had a list of the vessels to which I furnished convoy at Campeachy, amounting to more than twenty. While I was at Campeachy, I was also importuned to take on board $ 40,000, and carry it to the Balize. This I declined, as it would interfere with my other duties. The pirates were carrying on their depredations, and I considered it my duty to protect American commerce and look after the pirates. While there, I ran one vessel on shore, and took another, which I delivered up to the authorities of the place.

Q. Independently of the transportation of specie, did the general protection of American commerce and property, and the suppression of piracy, require the presence of the vessels of the squadron in the Gulf of Mexico as frequently as they were sent there, and at the places to which they were sent?

A. As far as my knowledge extends, it was so; there were numerous piracies committed along the coast of Yucatan, off Tobasco and Alvarado, and apprehensions were generally entertained by the American merchants trading between New Orleans and Tampico.

Q. Were the vessels of the squadron in the practice of offering convoy to American vessels?

A. It was their constant practice. I never knew an instance of its being refused.

Q. Was every thing done by Captain Porter, with the squadron under his command to suppress piracy, which could be done?

A. As far as I know it was.

Q. Is there any other matter relating to the subject under investigation which you deem material? If so, state it fully.

A. Nothing within my recollection.

Thomas H. Stevens, a Master-commandant in the Navy of the United States, being duly sworn, according to law, deposes and says—

Q. In what capacity did you serve in the squadron under the command of Captain Porter, and between what periods?

A. I commanded the Jackall from early in January, 1823, to July 5th, of the same year; and the Shark, from July 25th, of the same year, till June 10th, 1824.

Q. On what particular service were you employed during these periods? Produce such orders and instructions as you received, relating to the subject of this inquiry.

A. During the first part of the time, I was not cruizing under Commodore Porter; I received my first instructions from him on the 11th May; (read and annexed.) The second orders are of the 6th of June; (read and annexed;) and the last orders, while in command of the Jackall, dated the 18th June; (read and annexed.)

I left Aguada in company with Captain Kearney, on the 11th of March; ran down the south side of St. Domingo, giving the coast a strict and careful examination for pirates. From thence, we stretched over to Cuba, and commencing at Cape Maze, examined very particularly the coast on the south side, to Cape Antonio—having two boats frequently out, and particularly about the Bay of Cape Antonio, and arrived at Havana about the end of March.

I went into Havana, and found the alarm very great on account of pirates; gave convoy from there on the 1st of April, to probably fifteen or twenty vessels, and, on the 3d of April, arrived at Thompson's Island, and reported to Commodore Porter. Captain Kearney's report of the 11th April, 1823, details the events of the cruize. On the 8th, sailed again, in company with the Fox and two barges, with part of the crew of the Peacock, under the command of Captain Cassin. We arrived next day at the Havana, where much alarm prevailed on account of several captures made by the piratical schooner Pilot. On coming out of the port of Havana, I informed Captain Cassin, then off the harbour, of the great excitement prevailing there, and strongly urged to send the barges in pursuit of the piratical vessel. This was done under Lieutenant Stribling: the next day he returned, having captured her. We gave convoy to a large fleet, and then proceeded to leeward, and entered the Colorados at Cayo Blanco; commenced and continued an unremitting search after pirates, examining every inlet and bay to Cape Antonio. After examining which most particularly, we returned to Thompson's Island. While within the Colorados, we captured a large launch and a fine falucca, particularly adapted for piratical purposes, being manned and armed with guns of various calibres. Drove the crews ashore, after an action with them, and destroyed their establishment on shore, consisting of five huts.—When we left Thompson's Island, we left Commodore Porter preparing boats and men to be despatched on the same service. On my arrival at Thompson's Island on the 26th April, I careened and repaired my vessel, took in provisions, and sailed in conformity with my instructions of that date. I was engaged in giving convoy and in cruizing to windward of Matanzas after pirates, till the 5th June, when I returned to Thompson's Island, and received my instructions of that date. I obeyed these orders; went to Havana and

Matanzas, cruizing and giving convoy, and returned to Thompson's Island on the 17th June, where I received my orders of the 18th, and proceeded to the United States, to Washington. On the 29th July, received orders to take command of the Shark, at New-York, and on the 3d October sailed from New-York, having on board Commodore Rodgers and the surgeons who went out to visit Thompson's Island. On the 27th arrived at Thompson's Island; remained there ten or twelve days; proceeded to the Havana; left there November 6th, and arrived at Norfolk on the 16th.

On the 27th December, I received my orders from Commodore Porter, of that date; sailed from Norfolk, in pursuance of them, on the 31st; arrived at St. Jago on the 7th January, 1824; ran down the south side of Cuba; examined, carefully, the coast to Cape Antonio; and, on the 28th January, arrived off Alvarado, where I landed the gentlemen who had sailed with me from the United States, as the Agents of the Bank of the United States.—On my arrival at Alvarado, I was informed by the acting Vice-Consul there, that a large amount of American property was detained at the Castle of St. Juan de Ulloa, and that the representations of some naval commander were necessary to obtain restitution of it. I, accordingly, ran up to Point Lizardo, and anchored. I then left the vessel and repaired to Alvarado, for the purpose of inquiring into the business. Finding the statement of those who made the representations correct, I was returning to Lizardo, when a heavy north wind compelled me to return. This wind drove the Shark to sea, and I did not rejoin her till four or five days after. I then took with me an agent for the recovery of this property, and after arriving on board, addressed a letter to General Lamour, the commander of the Castle, who immediately restored it. In coming from the Castle, the authorities at Vera Cruz seized the property, which made my presence at that place necessary. I got under weigh, and anchored at Sacraficios on the 11th March, and entered into a correspondence with General Victoria, which eventuated in the reference of the matter to the Government at Mexico.

Shortly after arriving at Vera Cruz, hostilities commenced between the Castle and the City; and, as our vessels were daily arriving there, and liable to capture and detention by either of the contending parties, I remained there, warning them off, and affording them every assistance in my power, till I received a letter from one of the gentlemen whom I had taken out with me, informing me of the failure of their mission. I sailed the next day after the receipt of this letter, and arrived at Tampico on the 3d April. I remained there four or five days, and then sailed for the Havana, where I arrived on the 19th—repaired to Thompson's Island, where I received instructions from Captain Porter to proceed to the United States; which I did, and arrived at New-York on the 14th May.

Q. While under the command of Captain Porter, did you carry any, and what amount of specie, on freight?

A. The whole amount of specie that I received on board, was $163,500: and before receiving any money in a foreign port, I always saw that the duties had been regularly paid. Of this amount, $8,000 dollars was received at the Havana, when returning home in the Jackall; $58,000 at Thompson's Island, and $97,500 at Tampico: $10,000 from Tampico was delivered at Havana—all the rest in the United States. The $8,000 was shipped at Havana, consigned to the house of Goodhue & Co. at New-York. The $58,000 was received by permission of Commodore Rodgers from Lieuts. Oellers and Rousseau. The $97,500 was shipped by the American Consul, Mr. Ingraham, at Tampico.

Q. What premium or freight did you receive for such transportation, and how was it appropriated?

A. For the $8,000 I received 2½ per cent.; for the $58,000, I received 2 per cent., and for the $97,500; 1½ for that landed at Havana, and 2 per cent. for that brought to the United States. I received for myself two-thirds; the other third I paid over to Commodore Porter. The Commodore never made any demand of me for any of it; it was a voluntary act of mine, in pursuance of the general custom.

Q. Was any time consumed at the place where the specie was shipped, on the passage, or at the ports where it was delivered, in consequence of being engaged in the transportation of specie, which would otherwise have been specially devoted to the suppression of piracy?

A. In no instance did any delay occur, for the purpose of taking on board specie; on the contrary, I was requested to wait at Vera Cruz, or to stop off Alvarado, for the arrival of a convoy, which was expected down from Mexico, with two or three million of dollars, which I declined doing, but sailed immediately on receiving the letter I have mentioned, from the gentleman whom I carried out.

Q. During the period of your being under the command of Captain Porter, did you ever hear, or do you know of any specie being carried on freight by any vessel on board which he was at the time?

A. I do not know that in any case the vessel which carried Commodore Porter's pendant carried any specie. Commodore Porter was never down the Gulf while I was with him; he was either employed on the coast of Cuba, or at Thompson's Island.

Q. Did the general objects of the protection of American commerce and property, and the suppression of piracy require, in your opinion, that the vessels of the squadron should go as frequently as they did to the Gulf of Mexico, and to the places to which they were sent?

A. They certainly did, according to my opinion.

Q. Were the vessels in the squadron in the practice of affording convoy to American vessels?

A. In every instance where it was required; more frequently than the general orders required it.

Q. Was every thing done by Captain Porter, with the force under his command, which could be done to suppress piracy?

A. All that energy and decision could accomplish, was done to attain that object. It appeared to be the principal object of the Commodore, and of every officer under his command.

Q. During the time that you acted under Captain Porter, had you reason to believe that unfounded reports of piracies were circulated in the West Indies?

A. I have no doubt but such reports were frequently circulated without the shadow of truth, for the purpose of drawing off the attention of our squadron.

Q. Is there any other matter relating to the subject of this inquiry, material to mention?

A. I know of nothing important.

The Court adjourned till half past 10 o'clock, to-morrow morning.

TUESDAY, MAY 17TH.

The Court met pursuant to the adjournment of yesterday: present as before.

Master Commandant William B. Finch, again.

Q. During the period of your being under the command of Captain Porter, did you ever hear or know of any specie being carried on freight by any vessel on board of which he was at the time?

A. No; his flag was transferred from the John Adams, before she sailed down the Gulf, to the Sea Gull. The Commodore himself never went down into the Bay while I was with him.

Charles W. Skinner, a lieutenant in the Navy of the United States, being *duly* sworn according to law, deposes and says:

Q. In what capacity did you serve in the squadron under the command of Captain Porter, and between what period.

A. I served with Captain Porter, from about the 23rd December 1822, till about the 11th of July 1823, in command of the schooner Wild Cat. I commanded the Porpoise from March, 1824, until Captain Porter left the West India station.

Q. On what particular service were you employed during these periods? Produce such orders and instructions as you received.

A. I was governed by the general instructions, that have been given in evidence, and obeyed them in every particular. I was in company with Commodore Porter until after the arrival of the squadron at Aguada. At that place the squadron was separated, and I continued with the Commodore until the 20th March, engaged in the suppression of piracy, particularly between St. Thomas and Sugar Key; we anchored at sugar Key, where the Beagle was put also under my command, three Lieutenants from the Peacock, and about eighty of the ships company in the boats of that vessel, with orders to examine from Cayo Romano, in the old Bahama Streigths to Matanzas. We landed on the different Keys, examined them.

boarded all the vessels we fell in with, and arrived at Matanzas on the 29th March. On the same night, in consequence of a report that a piracy had been committed in Escondido, I sailed for that place with the Beagle and the boats of the Peacock in company, examined the place, and found the report to be unfounded. I returned, and off Matanzas fell in with the Commodore in his gig. The Commodore sailed about the 30th, and left me in command of the Wild Cat and Beagle, to convoy from Matanzas and the Havana twice a week, till further orders, and to examine in the intervening time the creeks and inlets in the neighbourhood. From that time till the 2nd July, I was constantly engaged in this business, boarding every vessel, and examining every creek. During that period, I believe I gave convoy to about one hundred and eighty sail of vessels, affording all the protection in our power, being constantly at sea. I went over to Thompson's Island, and on the 3rd July, sailed for Key Vacus, to land marines and artillery; and sailed from thence on the 5th for the United States.

The second cruise was to the coast of Africa, under orders from the Department, dated June 19th, 1824. (Read, and annexed.) Having accomplished the duties given by those orders, boarding on the coast of Africa several vessels engaged in the slave trade, under the French, Spanish, and Danish flags; returned to Cape Mesurado, took on board Mr. Gurley, as I was directed, and sailed for the West Indies. On the 15th September, arrived at St. Pierres Martinico, sailed on the 16th, arrived at St. Thomas the 19th, sailed on the 24th, convoying a ship through the Sail Rock passage. On the 25th, arrived off St Johns, Porto Rico, and inquired after pirates; finding all quiet in that quarter, I proceeded, and on the 38th, landed and examined the Island of Mona.

On the 30th, went to the City of St Domingo. On the 4th October, anchored off St. Jago de Cuba; during each of these trips kept as near the shore as possible, examining the coast and inlets—proceeded to the Island of Cayman, thence over to Cuba, and went down it till I reached Cape St. Antonia, where I gave chase to a suspicious vessel, and at night despatched some boats in pursuit of her; the boats found the Piratical establishment on the Cape, and destroyed it, but were unable to overtake the vessel. Being short of provisions, proceeded to Havana, boarding all the vessels I met with—arrived at Havana on the 13th. On the 17th sailed with convoy; in going out of the harbour, fell in with the Terrier, a barge in company, going in—informed him of the piratical vessel I had fallen in with at Cape St. Antonio, and he immediately went in pursuit, and succeeded in capturing him. On the 19th, having left the convoy, anchored at Matanzas. On the night of the 20th, having borrowed a boat from the shore, sent all my own boats with all my officers, and as many men as could be spared, to search the piratical haunts about Matanzas. On the 23d, they returned with the piratical schooner Gata, and three piratical boats as prizes. On the night of the 24th, manned the prize schooner, and sent her

cruise. On the 25th, sailed with a convoy from Matanzas, 28th fell in at sea with the schooner, proceeded to Thompand, where I arrived on the 31st October. There repaired iel, took in provisions, and sailed on the 10th November nzas, having received an order to that purpose from the lore; arrived at Matanzas on the 11th. On the 13th sail- a convoy, and from that time till the 17th December, was ly occupied in that neighbourhood, giving convoy to mern, and with my boats out searching for pirates. On the 18th er, arrived at Thompson's Island, where I joined Commorter. On the 22d, received the order, (read and annexed,) ed to the Gulf of Mexico, with which I complied. Sailed 3d for the Havana, thence on the 26th for the Gulf of Mexi- the 31st fell in with an American brig, and convoyed her peachy, there offered convoy, and proceeded to the differes indicated in my orders, offering at each convoy and pro- o American commerce. Sailed from Tampico on the 18th arrived at Havana on the 31st, there I received an order ptain Warrington to comply with the previous order, re- rom Captain Porter, and sailed about the 7th April for rk, where I arrived about the 19th.

hile under the command of Captain Porter, did you re- y and what amount of specie on freight?

he first specie I carried was in the Wild Cat, from the Ha- 5,000, carried to a vessel which had sailed before me and was to convoy. The next time I carried $34,519 from to the Balize. The next sum I carried was $109,013 from ; $2000 was landed at Havana, the residue at New-York.

as it shipped by American merchants, or by whom?

ll that I carried from Tampico was shipped by the Ameriul; the $5000 was shipped by the master of an American f Philadelphia.

hat amount of freight did you receive for such transpornd how was it appropriated?

he whole amount was between $2,200 and $2,300, one third osited in Bank for the commanding officer, the residue was

as any time consumed at the places where the specie was , on the passage, or at the places of delivery, in consef your being engaged in the transportation of specie, which therwise have been specially devoted to the suppression of

did not remain at any of these places longer than I should ne, had there been no specie. I complied strictly with my I was on one occasion offered a considerable sum of mobe carried to New Orleans, but I declined it, as I had no otive to carry me there.

id the general protection of American commerce and y, and the suppression of piracy, require, in your opinion.

the presence of an American force in the Gulf of Mexico as frequently as it was sent there, and at the places to which it was sent?

A. I conceived it absolutely necessary that an American vessel of war should be in the Gulf of Mexico. I can only speak as to my own vessel, not knowing what other vessels were there or how long.

Q. Were the vessels attached to the squadron in the practice of affording convoy to American vessels?

A. So far as I knew, it was the constant practice.

Q. Was every thing done which could be done by the squadron to suppress piracy.

A. Yes; as far as came to my knowledge, no vessels were ever more actively or more disagreeably employed.

Q. During the time that you were under the command of Captain Porter, had you reason to believe that reports were circulated in the West Indies of piratical acts, which were ascertained to be without any foundation in truth?

A. Yes, many; it was constantly the case.

Q During that period, did you ever hear or know of any specie being carried on freight by any vessel on board of which Captain Porter was at the time?

A. No, I never did; I never heard of his being in the Gulf of Mexico.

Q. Is there any other matter or thing material to this investigation? If so, state it fully.

A. I do not recollect any thing further. When in Tampico, the American Consul informed me that he had repeatedly written to have an American vessel from the squadron sent down there to carry specie, and that, in consequence of there being none, it became necessary to ship it in English vessels, which made the route more circuitous, and increased the expense.

Charles H. Bell, a Lieutenant in the Navy of the United States, being duly sworn according to law, deposes and says:

Q. In what capacity did you serve in the squadron under the command of Captain Porter, and for what time?

A. I was a Lieutenant Commandant, commanding the Ferret, from the 8th August, 1824, until his return from the West Indies.

Q. On what particular service were you employed?

A. I received orders from Commodore Porter to proceed from Washington to Thompson's Island, touching at Matanzas, to give protection to our commerce. I sailed about the 26th, and arrived about September 10th; was employed during the whole time that I was under his command, in protecting American commerce, and giving convoy from Matanzas and Havana, and cruising occasionally after pirates, from about Havana to French Key, to the eastward of Matanzas.

Q. While under the command of Captain Porter, did you carry on freight any, and what amount of, specie?

A. Never any.

Q. Were the vessels attached to the squadron in the practice of offering convoy to American vessels ?

A. It was their constant practice so far as my knowledge extends. I myself convoyed at least forty or fifty vessels. I never refused convoy but once ; that was in Havana. I had received orders to convoy at a certain day from Matanzas, and the vessels which required it could not sail at the time. I was obliged to leave that port.

Q. Was every thing done by the squadron within their power, in the suppression of piracy.

A. I believe so.

Q. During the period that you were under the command of Captain Porter, did you ever know or hear of any specie being carried on freight by any vessel, on board of which he was at the time ?

A. No.

Q. Is there any other matter material to this inquiry ? If so, state it fully.

A. I know nothing further that is material.

John P. Zantzinger, a Lieutenant in the Navy of the United States, being duly sworn according to law, deposes and says :

Q. In what capacity did you serve in the squadron under the command of Captain Porter ? and for what length of time ?

A. I commanded the Weazel from 17th September, 1823, till July 20th, 1824.

Q. On what particular service were you employed ?

A. I arrived in the West Indies on the 17th October ; went through the Caycus passage ; went to Barico, at the east end of Cuba ; proceeded through the old streights of Bahamas to Matanzas ; remained there three weeks, giving convoy in and out of the harbour. From thence I proceeded to Havana ; found there the Porpoise, Lieut. Ramage, to whom I was ordered to report myself. Thence I proceeded to Key West, and returned to Havana, where I received orders to proceed to the U. States. My business on this first cruise was to examine the coast and inlets, in search of pirates, and to give convoy. I sailed for the United States about the 12th December, giving convoy and bringing home specie. Went from New-York to Norfolk, where I received orders to proceed to sea, in company with the Spark ; sailed July 18th, and proceeded to St. Thomas ; proceeded along the south side of Porto Rico, St. Domingo ; ran between St. Domingo and Jamaica ; thence along the south side of Cuba, round to Cape St. Antonio, giving the whole coast a thorough examination ; thence to Key West, where I rejoined the Spark. Sailed in company with the Spark about the 4th March to the Gulf, running along the coast of Yucatan to Cape Catouche ; ran into Campeachy, from thence to Alvarado ; remained there about three weeks ; thence to Point Lizarado ; thence to Vera Cruz. I thence proceeded to Tampico, with the annexed or-

der ; remained in the harbour near three weeks, affording protection to our commerce. I then sailed, with some specie on board, for Vera Cruz ; thence to Alvarado ; thence to the Havana, going along the coast from Cape Antonio ; thence to Thompson's island. I there received orders to proceed to New-York, and sailed for the United States. During this last cruise, my principal occupation was giving protection to American commerce, and looking after pirates. The reason of my continuing so long in the ports where I remained, was that the American Consul, and all the principal merchants, made a request of Lieutenant Newton to permit me to be there, stating, that as the Weazel was small and able to cross the bar, her presence was more important in affording protection to the commerce, than the larger vessels, which were compelled to remain outside. At Tampico I was detained near a fortnight, in consequence of an American vessel being attacked.

Q. While under the command of Captain Porter, what amount of specie did you carry on freight ? from what places, and where delivered ?

A. I carried $ 197,000, of this I carried $ 70,000 from Havana to New York. From Tampico and Alvarado, I carried $ 127,000 ; of this $ 55,500 was taken on board, in consequence of an American vessel from Philadelphia, who had it on board, running ashore off Tampico. I took it on board, and carried it to Philadelphia ; I delivered all the residue at Philadelphia, except $ 1,000 landed at Havana.

Q. Was it shipped by American merchants, or whom ?

A. All the money that I carried was shipped by American merchants.

Q. What amount of freight did you receive for the transportation, and how was it appropriated ?

A. I received two per cent on the whole amount carried ; one third I paid to the Commodore as a voluntary act on my part, the residue I retained.

Q. Was any time consumed at the places where the specie was shipped, on the passage or at the ports where it was delivered, in consequence of your being engaged on the transportation of specie, which would otherwise have been specially devoted to the suppression of piracy ?

A. None.

Q. Did the general protection of American commerce and property, and the suppression of piracy, require, in your opinion, the presence of an American force in the Gulf of Mexico as frequently as it was sent there, and at the places to which it was sent ?

A. Yes, and much more frequently. Complaints were numerous of the want of a force there.

Q. Was the procuring of specie the primary or secondary object of your going into that quarter ?

A. It was entirely secondary.

Q. Were the vessels of the squadron in the practice of affording convoy to American vessels ?

A. It was their constant practice wherever it was wanted ; I always offered convoy at every port to which I went.

Q. Was every thing done by the squadron which, as you conceive, could be done towards the suppression of piracy ?

A. It was.

Q. While you were under the command of Captain Porter, were any reports circulated, without any foundation, of piratical acts ?

A. Yes, frequently, on the coast of Cuba ; such reports were I believe frequently circulated for the purpose of drawing the vessels off.

Q. Did you ever know of or hear, that any vessel on board which Captain Porter was at the time carried specie on freight ?

A. I know of no instance, and never heard of any.

Q. Is there any other matter which you deem material to this inquiry ? If so, state it fully.

A. Nothing in particular.

David G. Farragut, a Lieutenant in Navy of the United States, being duly sworn according to law, deposes and says :

Q. In what capacity did you serve in the squadron under the command of Captain Porter, and for what period of time ?

A. I joined the squadron on the 4th February, 1823, as an acting Lieutenant on board the schooner Gray Hound, commanded by Master Commandant John Porter, and afterwards by Lieutenant Kearney, and continued on the station until the Commodore returned to the United States in July, 1824.

Q. On what particular service were the vessels to which you were attached employed ?

A. The Gray Hound was constantly employed, while I was on board her, in the suppression of piracy, and giving convoy on the south side of the island of St. Domingo and Cuba, and the Mona Passage, and on the north side of Porto Rico. I was in the Gray Hound till July, 1823, at which time I was transferred to the Steam Galliot Sea Gull ; she wore the pendant of Commodore Porter, and was engaged in cruising for pirates along the coast of Florida ; Commodore Porter was taken sick, and the vessel remained at Thompson's Island until he returned home in the summer of 1823.

On the 17th February, the Sea Gull having been repaired, we sailed again for the West Indies ; the Commodore in the John Adams in company, touching at different places visited the island of St. Bartholomews, St. Thomas, St. Kits, ran down the north side of Porto Rico through the Mona Passage, visited the island of Mona, down the south side of St. Domingo examined the coast and inlets, retook the schooner Pacification off Jaquemel from a Carthagenian privateer, visited St. Jago de Cuba, then down the coast examining the coast thoroughly by the isle of Pines ; coasted the island along as far as Matanzas, thence to Thompson's Island. The next day the Commodore arrived in the John Adams, and we were despatched on an expedition under the command of Captain Wilkinson to Cape Antonio, in pursuit of a pirate whom he had chased in there a few

days before, the boats entered the Colorados to the windward, and the Sea Gull to leward, and met about half way, received information from some fishermen that the vessel had sailed for the coast of Yucatan. Having made diligent search, we were joined by the Gray Hound, and returned to Thompson's Island, I then left the Sea Gull, and on the 10th June was appointed to the command of the Ferret. I received verbal instructions from Commodore Porter to cruise between Havana, Matanzas, and Thompson's Island, for the purpose of giving convoy twice a week out of Matanzas and Havana, to carry plants from Cuba over to the island, and to be careful to afford every protection to our commerce that might be requested. These orders were punctually obeyed; no convoys were asked which I did not afford, no piracies were complained of. I gave convoy sometimes three times, sometimes four times a week. I continued thus occupied until July 5th, when I received orders to carry a public agent to Nassau, New Providence, and afterwards to proceed to the United States.

Q. While under the command of Captain Porter, did you carry on freight any, and what amount of, specie?

A. I carried none.

Q. Do you know, or did you ever hear, that any was carried in any vessel on board which Captain Porter was at the time?

A. No; I never did.

Q. Was it the practice of the squadron to afford convoy, when required, to American vessels?

A. Always, I believe: I never knew an instance to the contrary.

Q. Was every thing done by the squadron for the suppression of piracy, which could be done?

A. I think so.

Q. Had you ever reason to believe that reports were circulated in the West Indies, without any foundation, of piratical acts; and for what purpose?

A. I have known many such myself; what the object was, cannot say. Some that I heard, I knew at the time to be false; and false reports were also circulated with regard to the absence of vessels, from the ports of Cuba, to give convoy.

Q. Do you know, and were you frequently at, the ferry kept by an Englishman named Roberts, near Matanzas?

A. Yes, I knew him; was frequently there; obtained from his plantation, plants for Key West.

Q. Do you know, or did you ever hear, of that ferry being much resorted to by pirates, or persons having intercourse with them?

A. I never did.

Q. Is there any thing further material to this inquiry?

A I know nothing that I conceive important.

The Court then adjourned till half past 10 o'clock, to-morrow morning.

WEDNESDAY, MAY 18TH.

The Court met, pursuant to the adjournment of yesterday: present as before.

Ralph Voorhees, a Lieutenant in the Navy of the United States, being duly sworn, according to law, deposes and says—

Q. In what capacity did you serve in the squadron under the command of Captain Porter; and for what period of time?

A. I served on board the Sea Gull, as a lieutenant, from December 26th, 1822, till July 16th, 1823. I then took command of her, and continued in command until July 10th, 1824.

Q. On what particular service was the Sea Gull employed, while you were attached to her, and where?

A. I sailed in February, 1823, for the West Indies. The vessel was employed generally in the West Indies, and particularly cruizing around the Island of Cuba, and through the Bahama Straits, in giving convoy to American vessels, and the suppression of piracy. The Commodore was frequently on board the Sea Gull, and I think for half the time that she was out, she bore his pendant, which was sometimes shifted to the John Adams and Peacock.

Q. During that time was any, and what amount of, specie carried on freight in the Sea Gull?

A. None was carried.

Q. Do you know, or did you every hear, that any was carried in any vessel on board which Captain Porter was at the time?

A. None that I know of.

Q. Was it the practice of the squadron to give convoy to American vessels?

A. Always, when required.

Q. Was every thing done which could be effected, to suppress piracy?

A. I believe all the vessels were actively and judiciously employed for that purpose.

Q. Had you reason to believe that many unfounded and exaggerated accounts of piracy were circulated in the West Indies.

A. Many such reports were circulated, which, on examination, we found to be destitute of any foundation; they were very frequent. I also frequently saw in the papers from the United States, the most exaggerated and unfounded statements of piracies.

Q. Is there any thing else material to this investigation within your knowledge? If so, state it fully.

A. Nothing.

John H. Lee, a Lieutenant in the Navy of the United States, being duly sworn, according to law, deposes and says:

Q. In what capacity did you serve in the squadron under the command of Captain Porter; and for what period of time?

A. I served as a Lieutenant on board the John Adams, from the time she went to the West Indies, until about the 25th April 1824: at that time I took command of the schooner Jackall, and continued in her till November 20th, 1824.

Q. On what service were the vessels in which you were, particularly engaged during those periods?

A. The John Adams joined the squadron at Key West, in August, 1823, and then returned to the United States in consequence of the sickness. About the 17th February, 1824, sailed again from the United States, under the command of Captain Dallas; the particular object in which we were occupied, was cruizing for pirates from the windward, down through the islands, till our arrival at Key West, where I left her On board the Jackall, I cruized along the coast of Yucatan and Campeachy, with another schooner in company, in pursuance of Commodore Porter's orders of April 25th; (read and annexed;) and executed those orders, and made the report of the cruize, which has been given in evidence.

Q. Did the vessels to which you were attached, while under the command of Captain Porter, carry any, and what amount of specie? where from, and to what parts?

A. None was carried in either of the vessels, while I was under his command.

Q. Did the protection of American property and commerce, and the suppression of piracy, require the presence of an American force in the Gulf of Mexico as frequently as it was sent there, and at the places to which it was sent?

A. I think it did.

Q. Were the vessels of the squadron in the practice of affording convoy?

A. Always, when asked, as far as I knew; and it was constantly offered.

Q. Were unfounded or exaggerated reports of piracies, common in the West Indies?

A. I think that exaggerated reports of piratical acts were very frequent.

Q. Did you ever know, or hear, of any specie being carried on freight by any vessel of the squadron, on board which Captain Porter was at the time?

A. No; I never did.

Q. Was every thing done which could be effected, by the squadron, for the suppression of piracy?

A. So far as my opportunities of judging extend, I think Commodore Porter made the best distribution of his force for the attainment of that object.

Q. Is there any other matter within your knowledge material to this inquiry? If so, state it fully.

A. Nothing, that I know of.

John T. Ritchie, a Lieutenant in the Navy of the United States, being duly sworn, according to law, deposes and says—

Q. In what capacity did you serve in the squadron under the command of Captain Porter, and for what period of time?

A. I was a Lieutenant on board the Ferret—sailed with the squadron in February, 1823, and continued in her till the July following, when I took command of the schooner Fox, and continued in that capacity until October, 1824.

Q. On what particular service were those vessels engaged ?

A. While in the Ferret, cruised around the Island of Porto Rico after some pirates that we had heard of—rejoined the Commodore at Aguadilla. The single object of the cruise of the Ferret, while I was on board her, was the suppression of piracy along Porto Rico, St. Domingo, Cuba, the Colorados to Key West. After I took command of the Fox, I received the orders dated July 19th, 1823, (read and annexed.) was then ordered to join Lieut Kennon, with whom I cruised after pirates, along the north coast of Cuba; afterwards received the orders of August 5th, (read and annexed,) and proceeded to the coast of Yucatan, executed them, and made my report of August 29th, which has been given in evidence. I afterwards proceeded to Matanzas and Havana, and, on my return to Key West, came home to the United States, under orders of September 16th, (read and annexed.) In December following returned to the West Indies, and cruized under the orders of Captain Wilkinson, (read and annexed,) until recalled to Key West in April following. Immediately on reaching the Island, received the orders of April 16th, 1824, (read and annexed,) and proceeded forthwith in execution of them. After my return, I received the orders of April 25th, (read and annexed,) and after executing them, returned to Key West, and to the United States in October following.

Q. While under the command of Captain Porter, did the vessels to which you were attached, carry on freight any and what amount of specie ? from and to what ports ?

A. During my first cruise I took on board, at various times, about $40,000 for the United States, received on board at Havana; on the last cruize, the only money I received was at Tampico, as I was leaving that place, about $20,000, for Havana ; of this, $3,000 was brought to the United States, and delivered at Washington.

Q. What freight did you receive for such transportation, and how was it appropriated.

A. I received, I think, 2½ per cent. on the first money I brought home, and 1½ per cent, on that brought from Tampico. One-third was given to Commodore Porter, and the residue reserved by me.

Q. Was this money shipped by American merchants, or by whom ?

A. It was shipped through the American Consuls at Havana and Tampico.

Q. Did the general interest of American commerce and property, and the suppression of piracy, require the presence of an American force in the Gulf of Mexico as frequently as it was sent there, and at the places to which it was sent ?

A. I think so.

Q. Did the transportation of the specie you carried interfere in any manner with your attention to the suppression of piracy, or protecting American commerce ?

A. It did not.

Q. Was every thing done by the squadron to suppress piracy which could be effected ?

A. I believe it was, so far as I was capable of judging.

Q. Is there any thing further, within your knowledge, material to the present inquiry? If so, state it fully.

A. Nothing further, than that circumstances occurred at Tampico in regard to the detention, for forty days, of an American vessel which I succeeded in having released; which shewed, beyond doubt, the necessity for having a man of war in that neighbourhood for the protection of American commerce.

Charles Boarman, a Lieutenant in the Navy of the United States being duly sworn, according to law, deposes and says—

Q. In what capacity did you serve in the squadron under the command of Captain Porter, and for what period of time?

A. As Lieutenant, I commanded the schooner Weasel, from the 20th July, 1824, till the return of Commodore Porter.

Q. On what particular service were you engaged during that period of time?

A. From the time of my arrival at St. Barts, on the 15th August, I was employed during the whole time, in convoying and cruising for pirates. Went to Crab Island in pursuit of pirates—captured a boat; the pirates escaped on shore. In September, sailed from Havana for the Gulf of Mexico, convoying three American vessels —arrived at Campeachy—sailed to Alvarado, and made my report of the 5th December, (read and annexed)—thence sailed to Tampico, inquiring after pirates, and furnishing protection to our commerce; and having fulfilled my orders, took on board specie for the United States, arrived at the Havana, and made my report of the 21st January, 1825.

Q. During this time, what amount of specie did you carry on freight, from, and to, what ports?

A. I carried about $65,000 from Tampico, shipped for New-York; about $20,000 of it was subject to the order of a merchant at Havana, and was there transferred to an English frigate; of this about $14,000 was shipped by an American house, and a part of the money was shipped by Spaniards. At Havana from three to four thousand dollars was put on board, and landed at Norfolk.

Q. What amount of freight was paid for this transportation, and how was it appropriated?

A. About $1,200 was paid; one third I gave Commodore Porter, and the residue I retained.

Q. Did this carrying of specie interfere in any manner with your attention to the suppression of piracy, and the protection of American commerce?

A. Not in the least. I was offered money at Campeachy to carry to the United States, but would receive none until I had completed my cruise, and was on the eve of returning to the United States; and I sailed as soon as I should have done had I carried no specie.

Q. Did the general protection of American property and commerce, and the suppression of piracy, require the presence of American vessels of war in the Gulf of Mexico, as frequently as

they were sent there, and at the places to which they were sent?

A. I think so. During the period of from two to three months that I was there, there was no other vessel of the squadron there.

Q. Was every thing done by the squadron which could be done, for the suppression of piracy?

A. My opinion is, that all was done that could be done to suppress it.

Q. Is there any other matter within your knowledge material to this inquiry?

A. Nothing.

Charles T. Platt, a Lieutenant in the Navy of the United States, being duly sworn according to law, deposes and says:

Q. In what capacity did you serve in the squadron under the command of Captain Porter, and for what period of time?

A. I served in 1823 in the Hornet, afterwards in command of a barge, and on board a merchant vessel employed as a decoy, and during the last year in command of the Beagle.

Q. On what particular service were you employed?

A. The particular objects in which I was engaged, were the offering protection to our commerce, and the suppression of piracy. Cruising in an open barge at one time sixty-eight days on the north east side of Cuba. My last cruise in the Beagle was principally confined to the passages in the neighbourhood of St. Thomas, under orders of August 4th, read and annexed. I was constantly cruising and giving convoy. While on that station, there was not a single vessel robbed, or an attempt made, in the neighbourhood.

Q. Had you any concern in the transportation of specie?

A. I never carried any. I was offered some on one occasion, but did not take it, not thinking the vessel I commanded a suitable one, and the object being inconsiderable.

Q. Do you conceive that the squadron did every thing which could be accomplished toward the suppression of piracy?

A. I do.

Q. Is there any thing further within your knowledge material to this inquiry?

A. Nothing further.

John Mountain, Esq. being duly sworn according to law, deposes and says:

Q. Were you in the island of Cuba during the period that Commodore Porter commanded the American squadron in the West Indies, and in what capacity?

A. I was; in the capacity of Vice American Commercial Agent.

Q. Are the documents now shewn you written by you?

A. I believe they are copies of communications made by me to Mr. Warner.

Q. Do you conceive that the sources from which you obtained the information contained in them deserving of confidence ?

A. I certainly do ; most of it is from declarations on oath, and the residue from respectable houses at Matanzas, and merchants intimately acquainted with the trade of that country.

Q. How many and what American men of war touched at the island of Cuba during the year 1824, to the best of your recollection, carrying specie on freight ?

A. I cannot answer as to the number, nor am I able to name the vessels, not knowing them distinctly ; generally speaking, however, all the vessels on the station of a large class. Captain Kennedy in the Hornet refused, and Lieutenants Shubrick and Ramage also refused, to carry any. I do not mean to say that this was their sole occupation. The communications I made to Mr. Warner were made in consequence of the clamour of American merchants and masters, who complained of the want of convoy.

Q. For what length of time were the vessels of the squadron absent, without giving convoy at the Havana ?

A. For several weeks at a time. This occurred I think, not more than once, and that was last summer This long absence produced the clamour that I have spoken of. There is no American merchant at Havana, who did not know and believe what I have stated in those communications. I understand that the vessels of the squadron had been removed by the orders of the Government, on account of the sickly season, which was a prudent step. I do not mean that the officers of the squadron did not comply with their instructions, but it was known at Havana that the neighbourhood was for some time deserted by them. The Americans carry on some trade in the Gulf of Mexico, and their remittances from that quarter, are made both in produce and specie.

Q. On hearing the general complaint of the merchants, did you make any inquiry as to the disposal of the force under Commodore Porter, and what was the information received ?

A. I did inquire on one or two occasions when vessels touched there, and was shewn the instructions to go to the Gulf of Mexico to protect the commerce, and touch at different ports there.

Q. Did you know any thing of the nature of Commodore Porter's instructions ?

A. I know nothing of them.

Q Was the conduct of those officers who refused to take specie, approved of or censured by the merchants ?

A. Much approved of.

Q. When the merchants complained of the want of protection, did you inform Captain Porter or any other officer, of those complaints ?

A. I did not inform Captain Porter, as I believe he was at that time in the United States, nor do I think I made any formal communication on the subject, as I thought it was unnecessary, as I believed every officer would do his duty ?

Q. Was the conduct of those officers who carried specie disapproved of?

A. Yes, it was.

Q. Did you ever act as Agent, or in any manner aid in procuring specie to be carried in the public vessels?

A. I have done so.

Q. By the expression in your letter of October 30th, "the thirst for making money prevails with others as well as those of the island of Cuba," did you mean to apply it to the officers generally, or to any particularly?

A. That expression was not originally used by me, it was the general cry at Havana, and I understood it to apply to all those officers who had any thing to do with the transportation of specie.

The Court then adjourned till 11 o'clock, to-morrow morning.

THURSDAY, MAY 19TH.

The Court met pursuant to the adjournment of yesterday: present as before. The Judge Advocate submitted to the Court a communication from the Navy Department, which being read, was annexed to the record, and marked (K.)

The Court then adjourned to meet at Gadsby's Hotel, in the City of Washington, at one o'clock to-day.

The Court met at Gadsby's Hotel, pursuant to the adjournment of this morning: present as before; and adjourned to meet at the same place to-morrow morning, at 10 o'clock.

FRIDAY, MAY 20TH.

The Court met pursuant to adjournment of yesterday: present as before. The Judge Advocate read and submitted to the Court sundry documents, &c. which were read and annexed to the record. The reading of them continued until after 3 o'clock, and the Court then adjourned till to-morrow morning, at 9 o'clock.

SATURDAY, MAY 21ST.

The Court met pursuant to the adjournment of yesterday: present as before, and proceeded to the consideration of the report to be made to the Department. At three o'clock, the Court adjourned till 12 o'clock, on Monday.

MONDAY, MAY 23D.

The Court met pursuant to the adjournment of Saturday, and proceeded to the further consideration of the report, which was agreed upon and signed, and annexed to the record. The Court adjourned till to-morrow morning, at ten o'clock.

TUESDAY, May 24th.

The Court met pursuant to the adjournment of yesterday. The Judge Advocate was instructed by the Court to transmit the record to the Department, and inform the Secretary that the Court, having finished the business before it, awaited his further orders. A communication was received from the Secretary dissolving the Court, annexed and marked (L,) whereupon the Court adjourned *sine die.*

(I.)

To Captain Isaac Chauncey, *President of the Court of Inquiry, now sitting at the Navy Yard, Washington.*

I have received the letter of the Judge Advocate, transmitting the proceedings of the Court, in relation to the landing of a part of the Naval Forces, under the command of Captain David Porter, in the island of Porto Rico, in November last.

I am also apprised, that Captain Porter has entered his protest against the competency of the Court, and declined taking further part in its proceedings, and that it has nothing before it.

Circumstances, connected with the Inquiry into the manner in which the Naval forces of the United States, under the command of Captain David Porter, were employed in the suppression of piracy, render it expedient that that inquiry should not fail or be defeated, because the officer who requested it, does not think proper to pursue it before this Court. You are therefore hereby directed to proceed in the inquiry indicated in the precept, according to its terms, notwithstanding the objections taken by Captain Porter. You will inquire into the manner in which the squadron under the command of Captain Porter has been employed, during the period of his command, and report to this Department the facts; and whether the said forces have been employed in the suppression of piracy in the most effective manner in which they could be employed, in conformity with the orders and instructions from this Department; or whether they have been engaged in objects of inferior moment, to the injury of the public service: all which you will transmit to this Department, to be submitted to the President of the United States, for his consideration.

Herewith, you will receive a list of the witnesses to whom orders have been given to report themselves to the Court, and such documents as appear to be connected with the subject of inquiry, shall be transmitted as soon as they can be prepared.

Should it appear, in the progress of the investigation, that other testimony within the control of the Department will be required, it shall be furnished with as little delay as practicable.

Given under my hand, and the seal of the Navy Department of the United States, at the City of Washington, this tenth day of May, in the year of our Lord one thousand eight hundred and twenty-five, and of the Independence of the United States the forty-ninth.

[L. S.]

SAM. L. SOUTHARD.

(K.)

To ISAAC CHAUNCEY, Esq. *President of the Naval Court of Inquiry, now in Session at the Navy Yard at Washington.*

SIR: I have received a letter from Richard S. Coxe, Esquire, Judge Advocate of the Court, dated the 18th inst. in which he informs me "that the Court has completed the examination of all the witnesses who have appeared before it, and inquiring whether any objection exists to the adjournment of the Court to some other place more convenient than the Navy Yard, for the completion of the business."

It is not perceived that any inconvenience or impropriety can result in the present situation of the business before the Court, from a change in the place of meeting. You are therefore hereby authorized, should the Court consider it expedient so to do, to adjourn to any other public place within the limits of the City of Washington, taking care to give proper notice of the change, and hereafter to hold your meetings at the place to which you shall have adjourned. I am, respectfully, &c.

SAM'L L. SOUTHARD.

NAVY DEPARTMENT, *May 19th*, 1825.

(L.)

NAVY DEPARTMENT, *May 24*, 1825.

SIR: The letter of the Judge Advocate, of this date, transmitting the record of the proceedings of the Court of Inquiry, in the case of Captain David Porter, has been received.

The Department has no further documents to communicate. The Court is, therefore, hereby dissolved, and the officers composing it will resume their respective stations.

I am, very respectfully, sir, your ob't servant,

SAM'L L. SOUTHARD.

Com. ISAAC CHAUNCEY, *President Court of Inquiry. Present.*

To ISAAC CHAUNCEY, ESQUIRE,
Captain in the Navy of the United States:

It having been made to appear to the President of the United States, that on or about the fourteenth day of November, in the year of our Lord one thousand eight hundred and twenty-four, David Porter, Esquire, a Captain in the Navy of the United States, then in command of the Naval forces of the United States in the West Indies and Gulf of Mexico, did, with a part of the military force under his command, forcibly land upon the island of Porto Rico, a part of the dominions of his Catholic Majesty the King of Spain, then and still at peace and in amity with the Government of the United States, and did then and there commit acts of hostility within the territories and against the subjects of the said King of Spain.

The President of the United States has deemed an inquiry into the conduct of the said David Porter on that occasion, as well as into the causes which led to the same, to be necessary and proper.

And whereas certain representations have been made to the Government of the United States, in regard to the employment of the Naval forces of the United States, in the West Indies and Gulf of Mexico, setting forth in substance, that in the year one thousand eight hundred and twenty-four, the said Naval forces were not employed in the suppression of piracy in the most effective manner, but were employed in the transportation of specie and in other objects of inferior moment, to the neglect of the public interests, and the said David Porter considering his conduct and character, as the commander of said forces to be thereby implicated, has requested of this Department that an inquiry be made into the truth of said representations.

The President of the United States, in consideration of the premises, has charged me to convene a Court of Inquiry for the purpose of examining into the matters aforesaid.

You are therefore hereby ordered to proceed to the Navy Yard at the City of Washington, on or before the second day of May next, to act as a member of said Court, and to officiate as the President thereof.

Orders are also transmitted to Captain William M. Crane, and Captain George C. Read, to appear at the time and place aforesaid, and Richard S. Coxe Esquire is also appointed Judge Advocate, and will report himself to you in that capacity at the time and place aforesaid.

And the said Court is hereby required to convene and organize at the said Navy Yard at Washington, on the said second day of May, and is authorized and directed to summon before it such persons as may be deemed necessary to give information touching the matters aforesaid; and is also empowered, authorized and directed, diligently and strictly inquire into the said matters, to make a statement of the facts in relation to the same, as they shall appear to the Court, and particularly to examine into and report the causes, which led to the conduct of the said David Porter at the island of Porto Rico before mentioned, and to ascertain and report whether the Naval forces of the United States were employed in the most effective manner in the suppression of piracy, or in objects of inferior moment, to the neglect of the public interests: all which you will transmit to this Department, to be submitted to the President of the United States for his consideration. And for your so doing, this shall be to you, and to all concerned, a sufficient warrant.

Given under my hand and the seal of the Navy Department of the United States at the City of Washington, this nineteenth day of April, in the year of our Lord one thousand eight hundred and twenty-five, and of the Independence of the United States the forty-ninth.

[L. S.]

Signed, SAM'L L. SOUTHARD.

The Court having maturely deliberated upon the precept, the communication from the honourable the SECRETARY OF THE NAVY, dated the tenth instant, and the evidence which has been submitted, agree in the following

REPORT:

The Court, in obedience to the precept and instructions of the honourable the Secretary of the Navy having inquired into the manner in which the squadron under the command of Captain Porter has been employed, during the period of his command; and whether the said forces have been employed in the suppression of piracy, in the most effective manner in which they could be employed, in conformity with the orders and instructions from the Department of the Navy, or whether they have been engaged in objects of inferior moment, to the injury of the public service; and having maturely considered the testimony which has been laid before the Court, reports the following statement as the result of this investigation:

It appears to the Court, that in the year 1822, piracy had been organized into a system in the West-India seas, preying upon the commerce of every country trading in that quarter.(1) In consequence of these excesses, an act of Congress was passed early in the succeeding session, "authorizing an additional naval force for its suppression." This law appears to have been acted upon in both Houses with great promptness,(2) and to have been approved on the 20th December, 1822.(3) By this act the sum of $160,000 was appropriated for the purchase and construction of such vessels as might be deemed suitable for that particular object, and to fit and equip them for immediate service.

In the preparation of this force, Commodore Porter was personally and actively employed, and such despatch was used, that on the 15th February the squadron, consisting of the Peacock sloop of war, the steam galliot Sea Gull, the Greyhound of 65 tons, the Shark of about 175 tons, the Ferret of 51 tons, the Fox of 51 tons, the Jackall of 47 tons, the Wild Cat of 48 tons, the Terrier of 61 tons, the Weazel of 53 tons, the Beagle of 52 tons, and the ship Decoy, sailed from Hampton Roads.

The instructions from the hon. Smith Thompson, the Secretary of the Navy, to Commodore Porter, dated February 1, 1823, state the objects for which the squadron under his command had been equipped, and the directions he was to pursue in the attainment of those ends. These objects appear to be the suppression of piracy—the affording effectual protection to the citizens and commerce of the United States—the suppression of the slave trade, and the transportation of specie to the United States. (4)

In these instructions it was specially enjoined upon Commodore

(1) President's Message to Congress, of Dec. 31, 1822.
(2) Extract from the Journals of both Houses.
(3) Act authorizing an additional naval force for the suppression of piracy.
(4) See instructions.

dations at the island, cannot be considered as objects of inferior moment, or which the public service would permit to be lost sight of, or even postponed.

It likewise appears to the Court, that from the period that this squadron arrived in the West Indies, the pirates changed, in a great degree, both their character and their haunts. Instead of cruising in open day, in vessels of considerable magnitude, they abandoned this open and avowed system of piracy, and for some considerable period of time, until a new system of operations could be organized, either entirely disappeared, or resorted to new places for the carrying on their depredations.

Immediately upon the arrival of Commodore Porter at Thompson's Island, he commenced the necessary works on shore, and an expedition was prepared and despatched under the command of Capt. Cassin, in quest of a supposed pirate, who had been seen a few days previous in the neighbourhood of the Island of Cuba. The reports of Lieut. Stribling, who succeeded in effecting in a very gallant manner the capture of the vessel which had been the object of suspicion, dated the 8th April, 1823, of Capt. Cassin of the 9th of the same month, and of Com. Porter of the 16th, exhibit a full and correct account of their several operations during the intervening period of time.

The peculiar character of the service in which the squadron was employed, has been fully detailed in the reports made to the Department and in the testimony submitted to the Court. A large portion of the officers and men was employed in the small schooners and in open boats—in a severe climate—exposed to the heat of a tropical sun by day, and to the not less dangerous dews and exhalations at night. The vessels themselves, from their size, were destitute of suitable accommodations, and the operations in which they were engaged necessarily imposed incessant fatigue and constant exposure. One fact may be deserving of particular notice, as exhibiting a specimen of the nature of this service. It is in evidence before the Court, that Lieut. Platt was employed for sixty-eight successive days in an open barge, on the North-West Coast of Cuba, in the examination of the inlets, bays, keys, and other places of piratical resort. Two of the schooners were occupied in giving convoy off the Havana, which were relieved by others whenever required. The barges under Capt. Cassin were engaged in a laborious and critical search after pirates and piratical establishments; and during this period all the disposable force under the command of Com. Porter appears to have been actively occupied in the important objects entrusted to his care.

On the 24th April, Commodore Porter, after detailing the circumstances attending an expedition in which he had been engaged, states his belief, that there was not at that time a pirate afloat on that part of the Coast of Cuba (Matanzas) larger than an open boat, and even that is doubtful. About the same period, Capt. Cassin was employed in the Fox, and with the barges, in a careful examination of all that part of the Coast of Cuba to the westward of Havana, through the reefs, and in the inlets; in the course of which two piratical

vessels were pursued and captured, and their establishments on shore, consisting of five huts, destroyed—the pirates themselves succeeding in effecting their escape, in consequence of the nature of the ground, which rendered a continuation of the pursuit on shore impracticable.

On the 10th of May, Com. Porter reports his proceedings during the intervening time, and the operations in which the squadron were then engaged. The result was "the capture of a piratical schooner and a very fine felucca, the destruction of one on shore, the burning of three schooners in the Rio Palmas, and about a dozen houses in the different establishments to leeward of Bahia Honda, and inside of the Colorados reefs; and what," he continues, "will be of no little importance in all our future operations, a most thorough and intimate acquaintance with the whole line of coast from Cayo Blanco, in the east, down to Cape Antonio, in the west."

Another expedition was immediately despatched under the command of Lieut. Watson, who, after a strict examination of the coasts and islands from Cayo Francis to Cayo Blanco, in the vicinity of Cape Hycacos, discovered in Siguapa Bay a piratical schooner, which, after a gallant action, peculiarly destructive to the pirates, he succeeded in capturing, without having sustained on his part the slightest injury. His report of the expedition, dated July 11th, contains a narrative of the circumstances.

During the same period, two of the schooners, under the command of Lieut. Skinner, were engaged in giving convoy from Havana; two were careened at Thompson's Island; and such was the want of men that it became impossible to man all the barges, some of which were, consequently, laid up.

On the 14th May, the Peacock sailed from Thompson's Island, to relieve the Shark in the Gulf of Mexico, in pursuance of the instructions of the 7th May. The particulars of this cruise are detailed by Captain Cassin in his testimony before the Court.

So successfully had the squadron during this period accomplished the objects for which it had been sent, that, on the 19th May, Com. Porter felt himself authorized to state to the Department that "not a single piratical act had been committed on the coast of Cuba since he had organized and arranged his forces."

On the 22d of the same month, he states that he is "left at Thompson's Island alone with the Sea Gull, one small schooner being engaged in the protection of commerce off Havana; another at Matanzas; two coming in for repairs, and all the others cruising for pirates on the south side of Cuba, and in the Old Streights of Bahama." Early in June, accounts having been received that a piratical schooner had captured two vessels on the south side of Cuba, the Grey Hound, under command of Lieut. Kearney, was despatched in pursuit; whose report of his cruise is dated August 10th.

At this period, such was the incessant occupation of the squadron under command of Commodore Porter, so widely dispersed, and such its deficiencies in strength, that he was compelled to discontinue for a time the practice of giving convoy off Havana, and to bestow

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During the absence of Commodore Porter in the United States, the evidence before the Court throws but comparatively little light upon the general operations of the squadron. By the instructions from the Department, of October 28th, Commodore Porter was directed, if the state of his health would permit, to take upon himself the general superintending direction of the equipment of the vessels of his squadron, then at Washington and Norfolk. It appears that the Peacock, John Adams, Sea-Gull, Beagle, Grampus, Wild Cat, Weazel, and Porpoise, were in the United States during different portions of that time, undergoing repairs and recruiting their crews, and as soon as they could be equipped, most of these small vessels resumed their stations, and returned to the accomplishment of the general duties enjoined on them.(7)

Commodore Porter sailed in the month of February, in the John Adams. From the testimony of Captain Dallas, and the report of Commodore Porter of April 8th, it appears that she touched at St. Bartholomews, St. Christophers, and St. Thomas; examined the south coast of Porto Rico, looking in at the Dead Man's Chest, and Ponce, touching at Mona, St. Domingo, Beata, and Kingston, making diligent inquiries and examinations for piratical vessels, and offering convoy and protection to vessels of all nations from piratical aggressions."

By the letters of the Secretary of the Navy, of May 17th, 1824, and May 31, 1824, it appears that considerable difficulties and delays in preparing an additional force had been experienced. This arose from the late period of the session of Congress at which the appropriation bill was passed. It became impossible, before an advanced period of the season, to commence preparing those vessels which it had been designed to unite to the squadron. It is to this circumstance that the unexpected absence of the Hornet and Porpoise from the West-India seas is attributed.

During the month of April, an expedition was detached under command of Captain Wilkinson, in quest of pirates, and the report of that officer, dated the 24th of that month, details his operations. Lt. John H. Lee, with the Jackall and Wild Cat, sailed on the 26th April, and on the 12th May reports the circumstances attending his cruise. The John Adams was despatched to the Gulph of Mexico, and her operations in that quarter are stated in the testimony of Captain Dallas. The Sea Gull, Terrier, Spark, Grampus, and Ferret, appear to have been in the neighbourhood of Cuba and Thompson's Island, furnishing convoy, and engaged in the pursuit of pirates. On the 28th May, Commodore Porter informs the Department that the fever had made its appearance at Thompson's Island, and that he purposed removing the principal part of his forces to the north, about the middle of the succeeding month. This letter appears to be the only notification sent to the Department of such intention, and it was not received at Washington until June 24th, the day on which Commodore Porter reached the same place, on his return from the West Indies,

(7) General Orders, of Nov. 8, 1823. Letter from the Secretary of the Navy, Dec. 3, 1823.

a more undivided attention to the pursuit and destruction of pirates. The continual presence of a vigilant force had rendered the north coast of Cuba comparatively safe from their depredations, and they had retired to other scenes, into which it became necessary to follow them.

On the 14th June, Lieutenant Newell, in the Ferret, sailed on a cruise to Trinidad, on the south side of Cuba. In the course of a few days, he fell in with an armed piratical barge, and captured two boats, the barge escaping up a lagoon in which it was impracticable to continue the pursuit. The particulars of the expedition appear in his report of June 25th.

In July, the Grampus, under the command of Lieutenant Gregory, arrived at Thompson's Island, and joined the force under Commodore Porter: the details of his previous operations appear in his report of the 3d July.

Lieutenant Ritchie was then despatched to the coast of Yucatan, under orders of July 8th, to ascertain the situation and character of a supposed piratical establishment in that quarter; and on the 29th August reported the circumstances of his expedition.

Shortly after the transactions that have been detailed, the yellow fever made its appearance at Thompson's Island, and in the squadron. The fatal consequences are stated in the report made by the Secretary of the Navy to the President of the United States, under date of the 21st September, 1823, and in the reports of Commodore Rodgers, and the Physicians who accompanied him to make an examination of the island, annexed to the record. Commodore Porter himself, by authority of the Department, and suffering from the effects of an attack of the fever, left the West-India seas, with a considerable portion of his force, and returned to the United States, as a necessary measure for the restoration of the health of the squadron. To such an extent had this disease carried its ravages, that it was considered prudent to direct the John Adams and Peacock to keep in company during their homeward route, for the purpose of affording mutual protection.

The general result of the operations of this season may be found in the report made to the Department, by Commodore Porter, on the 19th November. In this paper, it is stated that, "on the arrival of the squadron at Cuba, piracy was found in full force: but by the extraordinary activity and diligence of the officers and men under his command, it was in less than two months as effectually suppressed as it will be for several years." It is further stated, "At present I have no knowledge of the existence of any piratical establishment, vessels or boats, or of a pirate afloat in the West-Indies and Gulph of Mexico. They have all been burned, taken, destroyed, and driven to the shore."

In reviewing the operations of the squadron during this period of time, it appears to the Court that Commodore Porter, and the forces under his command, were fully entitled to the high commendations bestowed on them by the Department, in the letter of the 28th Oct. 1823.

During the absence of Commodore Porter in the United States, the evidence before the Court throws but comparatively little light upon the general operations of the squadron. By the instructions from the Department, of October 28th, Commodore Porter was directed, if the state of his health would permit, to take upon himself the general superintending direction of the equipment of the vessels of his squadron, then at Washington and Norfolk. It appears that the Peacock, John Adams, Sea-Gull, Beagle, Grampus, Wild Cat, Weazel, and Porpoise, were in the United States during different portions of that time, undergoing repairs and recruiting their crews, and as soon as they could be equipped, most of these small vessels resumed their stations, and returned to the accomplishment of the general duties enjoined on them.(7)

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(7) General Orders, of Nov. 6, 1823. Letter from the Secretary of the Navy, Dec. 3, 1823.

as appears by his letter of the 25th of that month. On the 19th July, he is directed to despatch the Shark, Grampus, and Spark, to their station, as speedily as possible, and they, as well as other vessels, received orders to that effect.

On the 14th October, the Secretary of the Navy informs Commodore Porter that "it is deemed expedient by the Executive that you return as speedily as possible to your station in the John Adams." On the 21st October he was again ordered to repair to his station, and on the 24th of the same month he proceeded to sea in the John Adams. Immediately after his arrival in the West Indies, the occurrence took place at Foxardo, which has already been fully detailed in the report made by this Court in the first branch of the inquiry directed to be made, and which is considered as wholly unconnected with this investigation. A minute examination was again made of the south coast of Cuba, which being effected, the John Adams repaired to Thompson's Island. An expedition was immediately organized, and proceeded, under the command of the Commodore in person, in quest of pirates. Before his return from this expedition, orders were received, dated the 27th Dec. directing his return to the United States, with which, as soon as the officers and men of the John Adams engaged in the last mentioned expedition returned to their vessel, he complied.

At the time that Commodore Porter left the West India seas in June, 1824, the schooners Ferret and Terrier, with a barge, were left to cruise between Thompson's Island, Havana, and Matanzas, and they appear to have been actively occupied during his absence in giving convoy from Havana and Matanzas, and in exploring the neighbouring coasts for pirates. Other vessels occasionally arrived in that vicinity during the same interval, and were, for periods of different length, employed for the same objects. The Beagle was engaged in cruising and giving convoy in various directions in the neighbourhood of St. Thomas, and appears to have kept that quarter perfectly safe from piratical depredations. In another quarter the Weazel was accomplishing the same ends.

The absence of many of the officers engaged in the Squadron during the summer of 1824—the want of official reports of their several operations, and the withdrawal of Commodore Porter from any participation in the investigation, have rendered it impracticable to detail, with as much particularity as could be wished, the daily movements of the various vessels. A reference to the orders annexed to the record will show, in addition to the statements already made, the duties respectively assigned to them. So far, however, as the evidence reaches, it appears to the Court that the force was judiciously distributed and actively engaged.

The testimony which appears to conflict most with this statement is that of Messrs. Randall and Mountain, which will be found in the record. Mr. Randall appears to have been in the Island of Cuba, with the exception of a short interval, from the 3d May until the 9th November, 1824. During this time he was much occupied in attending to the general duties of his mission; part of the time sick, and dur-

: whole of it in a situation to hear all the rumors which might
circulation in regard to piratical depredations. Most of the
ation which he has communicated, appears to have been derived from
resentations of others; and however implicitly the Court would feel
:d to rely upon the accounts given by that gentleman of facts which
der his immediate notice, it cannot extend that confidence to others,
.t some proof of the means they possessed of acquiring exact informa-
nd the credit to which their statements are entitled. It is in evidence
the Court, that false and exaggerated reports of piratical aggressions
requently circulated, and sometimes, as the witnesses have believed,
express purpose of drawing off the attention of the squadron from
in which real danger existed. It also appears that such was the char-
)f the vessels or boats in which at this period the pirates sallied out
heir haunts—such the facilities afforded to these marauders by the in-
nts of Cuba, and the imbecility or inactivity of the constituted author-
such the ease with which pursuit could be evaded by retiring to the
that Mr. Randall has expressed a decided conviction, in the correct-
which no doubt is entertained by the Court, that no naval force, how-
rge, or however vigilant, could of itself ensure safety from these free-
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e evidence of Mr. Mountain is also in a great measure founded upon
presentations of others. So far as this witness speaks of the absence
eral weeks at a time of the vessels of the squadron during the summer
4, without giving convoy at the Havana, the allegation is not sustained
by the testimony of Mr. Randall or that of the officers at that time in
ighbourhood of Cuba. The former specifies the times of the arrival
eparture of the various vessels of the squadron throughout the entire
er, so far as they fell under his own observation; the latter detail the
l business in which they were severally occupied; and the Court has
unable to detect, in the testimony of either, the period of time to
Mr. Mountain's assertion can apply. So far as regards the alleged em-
ent of the squadron in other objects of inferior moment, the Court is
us of separating that part of the case from that which is connected with
neral operations, and to state in detail, so far as they have been given
lence, the facts which have transpired.

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d States, and the cruises, therefore, necessarily of short duration. (8)
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)f a noxious climate—the necessities which drove them continually to
West for the purpose of repairing the vessels and procuring supplies,
ined to engender and add virulence to the malignant diseases which

Letter from Com. Porter, Dec. 21st, 1822, to Purser Thornton. Letter from
ecretary of the Navy to the Naval Committee of the H. of R. of December
23.

broke out and proved so destructive to life, compelling for two successive seasons the return to the United States of a large proportion of the squadron.

Under these circumstances, it appears to the Court that the officers and men have eminently entitled themselves to the commendations which they have received. Commodore Rodgers, in his report dated November 24, 1823, observes, with ample means of judging, that "the vessels particularly purchased for the suppression of piracy, have done all that could be reasonably expected towards its suppression: indeed, they have searched every nook and corner on the whole Coast of Cuba from which a pirate might be expected to issue; and besides capturing and destroying all that could be identified as being of that character, they have made impressions not to be erased from the minds of such monsters, so long as we keep a respectable force in their neighbourhood, in readiness to chastise those whose temerity might induce them to renew their depredations, and which, in the present state of things, notwithstanding the scourging they have received, would be the case in the absence of such a force as I have described."

Captain Finch has stated in his testimony, that when he left Matanzas, in June, 1824, in company with Commodore Porter, he did not think there was any appearance of piracy in that quarter; and that a sufficient force was left there to keep it down. "In the then state of things," he continues, "I thought that force as competent to effect the object as a larger one would have been." He also states that he recollects but a single authenticated instance of piracy while he was with the squadron. It occurred in the neighbourhood of Matanzas. Lt. Voorhees was immediately despatched in the Sea Gull, in pursuit of the piratical vessel, and succeeded in capturing her in the course of a few hours.

Still more recently, the Committee on Naval Affairs, at the last session of Congress, in their report to the House of Representatives on the resolution of the 9th of December, instructing them to inquire into the expediency of providing an additional naval force, and other additional means for the suppression of piracy, state, "That they have had the subjects proposed in the said resolution under their consideration, and have made diligent inquiry into the operations of our naval force, which for the last two years has been employed in the Gulf of Mexico for the protection of our commerce, and the suppression of piracy. In this investigation, they feel a satisfaction in stating that the means employed have displayed the vigilance of the Government, and the activity, zeal, and devotion of the officers and seamen who have been assigned to that perilous service; perilous, not from the numbers or courage of the enemy, but from the deleterious effects of a tropical climate upon natives of a more temperate region. The vessels assigned to this service, were better adapted to a short expedition, than to long and tedious cruises. They were too small to afford the room necessary to preserve the discipline and health of the officers and seamen assigned to them: yet they enabled the commander to scour the coasts, to penetrate into the shoal waters of the creeks and inlets to the very margin of the land; and, in effect, the pirates have literally been driven from the Ocean, and confined to their fastnesses and haunts upon the land. Accordingly, their principal depredations for the last twelve or fifteen months have been confined to occasional sallies in boats and small craft, within one or two leagues of the shore. While these depredations have been more limited in extent and number, they have more frequently been attended with the most desperate and sanguinary destruction of the lives of the unfortunate victims."

Although the suppression of piracy was the principal, it was not the exclusive, object confided to Commodore Porter, and the squadron under his command: nor was the attainment of that end to be accomplished singly by pursuing pirates into their haunts, and the destruction of their vessels and establishments. The general protection to the commerce of our citizens—the suppression of the slave trade, and the transportation of specie from the Gulf of Mexico to the United States, were pointed out in the original instructions from the Department, as subjects requiring special attention. Independently also of these, but

of an entirely subordinate character, and temporary in their continuance, the surveys of the coasts of Florida, and of the adjacent Islands and Keys—the negociation under a resolution of Congress, in regard to the establishment of buoys, lights, &c. in the vicinity of the Bahama banks—the protection to be afforded to the timber on the public lands in Florida, were likewise committed to the same force. These last mentioned objects are merely referred to, in general terms, to shew the multifarious duties which this small force was instructed to perform. The others, as they continued throughout the entire period of the command of Commodore Porter, appear to require a more minute and detailed report.

In regard to the general protection of our commerce, it appears to the Court that it was eminently entitled to the attention which it received; not merely from its general and obvious importance, but as one of the means of suppressing piracy. By affording convoy and adequate protection to private commerce, one of the principal inducements to piratical adventure was removed, and the probability of success in pursuing and destroying these freebooters increased, should they have the temerity to venture from their haunts. In no one particular does it appear to the Court, that the benefits produced by the squadron in the West India seas, was more widely diffused, or greater in amount. This service, however, is one that can scarcely admit of being illustrated by reference to individual facts. It may, however, be particularly mentioned, that it is in evidence before the Court, that every vessel in the squadron, in addition to her ordinary and specific duties, was engaged in affording convoy on all occasions, and in every quarter;—that Lieutenant Skinner, alone, in the short period which intervened between the 30th March and the 3d July, gave convoy to about one hundred and eighty vessels. It also appears, by the report of the Secretary of the Navy, to the chairman of the Naval Committee of the House of Representatives, of December 21, 1824, that convoy was often declined, rather than submit to slight delays or changes in the course of the vessel; that insurance upon voyages to the West Indies continued unusually low, and that the offices add little, if any thing, on account of the risk of piracy. On the whole, it appears to the Court, that, so far as the amount and character of the force permitted, convoy was afforded to private trade in the West India seas and Gulf of Mexico, to the fullest possible extent, and to the greatest practicable advantage.

The suppression of the slave trade, also, required and received particular attention. "By direction of the Department, Commodore Porter, from time to time, despatched one of the vessels of his squadron to the coast of Africa, to touch at Cape Messurado, minister to the wants of the agency there, and return by the usual track of the slave ships." Such practical benefit resulted from this application of the force at his disposal, that "none of these or any other of our public ships have found vessels engaged in the slave trade, under the flag of the United States, and in such circumstances as to justify their being seized and sent in for adjudication."†

The next subject to which the attention of the Court has been directed, is the transportation of specie, particularly from the Gulf of Mexico to the United States. From causes which have already been referred to, it has not been practicable to pursue this inquiry to the extent desired. In addition to the general instructions, already particularly referred to, orders were issued by the Department, of December 22d, 1823, by which Commodore Porter was authorized "to receive on board specie, and the articles permitted by the act for the better government of the Navy, belonging exclusively to our citizens, and to carry them from one port or place to another, when it does not, in any degree, interfere with your other duties, or violate the laws of the country where you are. You may also bring to the United States specie belonging to our own citizens, but you are, in no case, to permit any thing in the shape or character of public advertisements to be used for the purpose of giving information that

† Report of Secretary of Navy, of Dec. 1, 1824.

you will carry them." "And, that the Government may know the extent to which the commercial interests of our citizens are benefitted, by the assistance afforded by our public vessels on this point, and be prepared to answer any complaints on the subject, which may be made by individuals or governments, you will, from time to time, make reports to this Department of all the specie and other articles you may carry, the places to and from which you carry them, and the circumstances, terms and conditions on which you do it."

On the 20th July, 1824, the Secretary of the Navy again expresses to Commodore Porter, that "it is the wish of the Department that you cause a portion of the force under your command, to touch occasionally at the port of Tampico in Mexico, and to afford protection to the citizens of the United States engaged in commerce with that port."

In obedience to the general instructions, the Shark, under the command of Lieutenant M. C. Perry, was despatched in March, 1823, to the Gulf of Mexico, (*a.*) Onthe 14th May the Peacock sailed from Thompson's Island to relieve him, (*b*) and thus at intervals of from six weeks to three months, a vessel was sent in that quarter, preparatory to her return to the United States.

After the receipt of the instructions of December 22d, 1823, a circular letter was addressed on the 30th of the same month, to the different commanders under his orders, forbidding them to take on freight any treasure, without special instructions to that purpose. On the 16th October, 1824, Commodore Porter reported to the Department the amount of specie which had at that time been transported by the different vessels under his command, since the preceding December. From this statement it appears that specie, to the amount of $399,000, had been carried within that period, at the average freight of 1 1-4 per cent. One other vessel under his command, which appears to have carried specie, the Shark, commanded by Lieutenant Gallagher, is not included in this report, not having at its date arrived at the port of destination, (*c*) so far as the Court has been able to ascertain the facts, it is inclined to believe that the amount of specie carried on freight, in the preceding year, did not equal in amount that which is stated in the report of Commodore Porter, as carried in 1824.

The orders under which Lieutenant Stevens acted, appear to have been given by the Department, on the application of the Bank of the United States, and, consequently, this appears to the Court, to have been a special employment of that officer and the vessel under his command, by the Government for public purposes.

The general character of the instructions given by Commodore Porter, in the year 1824, to the commanders of vessels bound to the Gulf of Mexico, may be ascertained from those annexed to the record, given to Captain Dallas, Lieutenant Stevens, and Lieutenant Skinner.

After a deliberate and full consideration of all the facts that have been elicited upon this subject, in the progress of this investigation, it appears to the Court to be abundantly proved by the testimony,

1*st.* That the instructions given by Commodore Porter to his various officers, were strictly in accordance with those received by him from the Department, in relation to the transportation of specie; and in no instance did they transcend the provisions of the 23d Article of the Rules and Regulations for the better Government of the Navy.

2*d* That the transportation of specie was, in itself, an object of sufficient moment, both to the government and the commercial interests of the country, to warrant the employment of the vessels of the squadron as frequently as they were sent to the Gulf of Mexico.

3*d.* That the general protection of commerce, and the suppression of piracy, required the presence of an American armed vessel in the Gulf Mexico, as fre-

(*a.*) Orders of that date.
(*b.*) Orders of May 7th.
(*c*) Testimony of Mr. Randall.

quently as one was despatched there, and at the places to which it was sent, entirely independent of any special view to the transportation of specie.

4th. That in no one instance was the transportation of specie made any thing more than wholly subordinate, and ancillary to the general objects for which the squadron was employed. That in many instances detailed in the testimony, various officers declined to receive specie on board, when it might have been obtained, in consequence of their extreme anxiety to obey the orders which they had received, not to permit this subject to interfere, in any degree, with the general objects of their cruise.

5th. The Court has not been able to discover a single instance in which any vessel, on board which Commodore Porter was at the time, under any circumstances, received any specie to be carried on freight.

6th. That the proportion of the freight paid over to him as the Commander-in-Chief, was paid as the voluntary and spontaneous act of the different officers, who carried the specie, without any provision by law, or any demand by Commodore Porter himself, but simply in conformity with general custom.

The Court has thus, in obedience to the orders of the Department, gone through the investigation which it has been required to make. The result of this laborious inquiry has already been stated in detail. In concluding this report, it may be sufficient to add, that the manner in which the squadron, under the command of Captain Porter, was employed, during the period of his command, appears to the Court to have been highly honourable to him, and to the officers and men employed—that the said forces were employed in the suppression of piracy in the most effective manner, in which they could be employed, in conformity with the orders and instructions from the Department; and that no part of them was on any occasion engaged in objects of inferior moment, to the injury of the public service.

All which is respectfully submitted. I. CHAUNCEY, *President.*

RICHARD S. COXE, *Judge Advocate.*

May 23, 1825.

PUBLIC DOCUMENTS.

Extract from the President's Message to both Houses of Congress, at the commencement of the second session of the seventeenth Congress, dated December 3d, 1822.

"A report from the Secretary of the Navy will communicate the progress which has been made in the construction of vessels of war, with other interesting details respecting the actual state of the affairs of that Department. It has been found necessary for the protection of our commerce, to maintain the usual squadrons on the Mediterranean, the Pacific, and along the Atlantic Coast, extending the cruises of the latter into the West Indies, where piracy, organized into a system, has preyed on the commerce of every country trading thither. A cruise has also been maintained on the Coast of Africa, when the season would permit, for the suppression of the slave trade; and orders have been given to the commanders of all our public ships, to seize our own vessels, should they find any engaged in that trade, and to bring them in for adjudication.

"In the West Indies, piracy is of recent date, which may explain the cause why other powers have not combined against it. By the documents communicated, it will be seen that the efforts of the United States to suppress it, have had a very salutary effect. The benevolent provision of the act, under which the protection has been extended alike to the commerce of other nations, cannot fail to be duly appreciated by them."

Report of the Secretary of the Navy, accompanying the President's Message December 3d, 1822. See *page* 136.

Extracts from the Journal of the House of Representatives, second session of the 17th Congress, page 21.

"5. *Resolved*, That so much of the President's Message as relates to the Navy and the suppression of piracy, be referred to the Committee on Naval Affairs. Dec. 10, 1822."

Page 33. Mr. Condict submitted the following resolution:

"*Resolved*, That the Committee on Naval Affairs be instructed to inquire and report, as early as may be, what further measures are necessary, not only for the more efficient protection of our commerce in the West Indian seas from piracy, but for the entire extirpation of those freebooters, and the punishment of those who may be found to aid and abet them. Dec. 10, 1822."

Page 33. The President's Message to the House of Representatives, dated December 6th, 1822:

"Recent information of the multiplied outrages and depredations

which have been committed on our seamen and commerce by the pirates in the West Indies and Gulf of Mexico, exemplified by the death of a very meritorious officer, seems to call for some prompt and decisive measures on the part of the Government. All the public vessels adapted to that service, which can be spared from other indispensable duties, are already employed in it; but, from the knowledge which has been acquired of the places from whence outlaws issue, and to which they escape from danger, it appears that it will require a particular kind of force, capable of pursuing them into the shallow waters to which they retire, effectually to suppress them. I submit to the consideration of Congress the propriety of organizing such a force for that important object.

"Signed, JAMES MONROE."

Page 34. "*Ordered*, That the said Message be referred to the Committee on Naval Affairs. Dec. 10, 1822."

Page 45. "Mr. Fuller, from the Committee of Naval Affairs, to which was referred the Message from the President upon the subject of piracy, reported a bill authorizing an additional naval force for the suppression of piracy; which bill was read the first and second time, and committed to the Committee of the Whole House on the state of the Union. Dec. 13, 1822."

Page 46. "The House resolved itself into a Committee of the Whole on the state of the Union; and, after some time spent therein, Mr. Speaker resumed the chair, and Mr. Lathrop reported the bill authorizing an additional naval force for the suppression of piracy, thereto committed this day, with an amendment, which was read and concurred in by the House; and it was

"*Ordered*, That the said bill be engrossed, and read a third time to-day.

"The said bill being engrossed, was read the third time and passed.

"*Ordered*, That the title be "An act authorizing an additional naval force for the suppression of piracy," and that the Clerk do carry the said bill to the Senate, and desire their concurrence therein."

Extract from the Journal of the Senate, 2d session, 17th Congress, page 28, vol. 16, dated 12th December, 1822.

"Mr. Rodney submitted the following motion for consideration:

"*Resolved*, That the Committee on the Judiciary be directed to enquire into the expediency of continuing in force the act, entitled "An act to protect the commerce of the United States, and to punish the crime of piracy;" and also, of making such further provisions on the subject as may be deemed proper for the security of our citizens, the safety of our commerce, and the punishment of the offence.

From the same, vide page 32, dated 16th December, 1822.

"The Senate resumed the consideration of the motion of the 12th inst. for directing the Committee on the Judiciary to inquire into the expediency of making further provisions by law for the suppression of piracy; and agreed thereto.

"*Resolved*, (page 34,) That so much of the President's Message as relates to Naval Affairs, and the suppression of Piracy, be referred to the Committee on Naval Affairs.

"The Senate resumed, as in Committee of the Whole, the consideration of the bill authorizing the President of the United States to employ an additional force for the suppression of Piracy; and

"On motion of Mr. Van Dyke,

"*Ordered*, That it lie on the table."

Extract from the Journal of the Senate, 2d session, 17th Congress, vide page 35, vol. 16, dated December 16th, 1822.

"The House of Representatives have passed a bill, entitled "An act authorizing an additional Naval Force for the suppression of Piracy."

"*Ordered*, That they severally pass to the second reading.

"On motion,

The bill, entitled "An act authorizing an additional Naval Force for the suppression of Piracy," was read the second time, by unanimous consent, and it was taken up and considered as in Committee of the Whole, and no amendment having been made thereto, it was reported to the House; and *Ordered*, That it pass to a third reading.

"On motion, it was read a third time, by unanimous consent.

Resolved, That this bill pass.

Ordered, That the Secretary notify the House of Representatives accordingly.

CHAP. 1. An ACT authorizing an Additional Naval Force for the Suppression of Piracy.

"[SECT. 1.] *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the President of the United States be, and he hereby is, authorized to purahase or construct a sufficient number of vessels, in addition to those now employed, of such burthen and construction as he may deem necessary, and to fit, equip, and man the same for immediate service, for the purpose of repressing piracy, and of affording effectual protection to the citizens and commerce of the United States in the Gulf of Mexico, and the seas and territories adjacent.

"SECT. 2. *And be it further enacted*, That the sum of one hundred and sixty thousand dollars be appropriated to meet the expenditure to be incurred as aforesaid, and paid out of any money in the Treasury, not otherwise appropriated.

Approved, December 20, 1822.

The Secretary of the Navy to the President of the United States.

NAVY DEPARTMENT, *Sept. 21st* 1823.

PRESIDENT MONROE: SIR—I feel it to be my duty to represent to you the following facts, and to request the favour of your opinion respecting the course proposed.

On the 17th of this month, by the arrival of the Beagle, at this place, from Thompson's Island, the Department was furnished with reports from the commanding officer, and the surgeons at that station, up to the 1st of September, by which we learn, that the John Adams, and several smaller vessels, were at that place; that, about the 20th of August, the yellow fever made its appearance, with considerable malignity; that several deaths had occurred, among which were two Lieutenants, Potter and Somerville; two Midshipmen, Marshall and Reed; the captain's clerk, Thomas; a carpenter, two seamen, a gunner, a cooper, and a steward; that Commodore Porter and twenty-one officers and men, were sick; the Commodore in a state of great debility, but good hopes were entertained of his recovery. By the arrival of Lieut. Boarman, yesterday morning, we have verbal information to the 8th of September, when Commodore Porter remained much as he was on the first; between the 1st and the 8th, there had been several deaths, and among them two Lieutenants and two Midshipmen; and the fever did not in any degree abate. All the *Surgeons* were sick, and four surgeon's mates constitute the whole medical skill at the station.

A careful examination of the reports of the sick, and minute inquiries of several officers who have been there, do not satisfy me that the fever originated on the island; but I incline to the opinion, that the infection may, in every instance, be traced to other places; but, whether it originated there, or be imported, the destruction of valuable lives is equally to be lamented, and the effects upon the service equally demand attention. Accounts from that place, some of them very exaggerated, find their way to the public prints, and create painful anxiety with the friends of those who are there, and will, it is to be feared, unless promptly corrected, produce feelings in the nation, which will be essentially injurious to our important interests in that quarter.

The value of that station for the suppression of piracy, and the protection of commerce, is perfectly understood by you. It ought not readily to be deserted. It is very desirable to save it, while we take the most effectual means to protect the valuable lives of our officers and men. It is impossible to leave them there, especially, situated as the commanding officer is, without taking some decisive measure for their relief; and, to order their immediate removal, with our present information, would seem hazardous and improper.

Two or three surgeons and surgeon's mates have been ordered, and are on their way to the island. And, in order to obtain the best advice in my power, I have submitted to Dr. Cutbush, and four other surgeons, now in the city, all the information which I could procure; stated to them the time within which an order for remo-

val could be executed, and required their opinion on the propriety of attempting a removal of the vessels to some northern port. Their report will be made to me at eight o'clock to-morrow morning, and I shall, probably, send you a copy. Their opinion must, necessarily, be less safe than if formed on the spot; but it may be a useful aid in determining on the course to be pursued.

The plan which I propose for your consideration, and which I shall adopt, if you do not disapprove it, is the following:

Prepare the Shark, now at New York, to sail to Thompson's Island, as speedily as possible; send in her one of the oldest and most experienced officers in the navy, with three of the most skilful and intelligent surgeons; direct them, in connection with Commodore Porter, (if his health will permit,) to investigate thoroughly the origin, causes, and progress, of the disease; the nature and situation of the island in reference to health, at this season of the year; the present state and probable health of the station; with authority either to retain the vessels there, or, if necessary, remove them to a nothern port, until the advance of winter shall justify their return to that latitude.

The Shark can sail in less than ten days; will probably take ten more to reach the island; and a removal may be effected in five more, if if be found necessary. I presume the officers who go out, may return in about four weeks from the time the vessel sails.

I believe I should select Commodore Rodgers for this purpose, and have consulted him about it. He approves the plan, and with his usual promptness in the public service, expressed a wish to partake in its execution.

The following benefits would result:

1st. The best medical assistance will, in this way, be furnished to the sick, at that station, and many valuable lives may be saved.

2d. The public mind will be quieted by a precise knowledge of facts.

3d. A station, necessary to the objects for which the Government sent out the expedition, will probably be continued and secured.

4th. We shall obtain the safest information to guide us on all future occasions.

I shall be pleased if this plan meet your approbation, and shall make the necessary arrangement for it; not, however, giving any orders which will create difficulty, should you disapprove it. Please to favour me with an answer by the express.

I am, sir, very respectfully, &c. SAM'L L. SOUTHARD.

The Secretary of the Navy to Com. Rodgers.

NAVY DEPARTMENT, *29th September*, 1823.

DEAR SIR: I enclose your orders. You are already well acquainted with the views of the Department, and of the President, in relation to your visit to Thompson's Island, and the motives by which it has been induced.

On your arrival there, you will of course, communicate freely

with Commodore Porter respecting them, should he still be there, and in a situation to receive your communications. The uncertainty whether he be still living; the anxiety felt by the government and nation for his safety; the numerous reports of the sickly state of the officers and crews of the vessels, and of those who are on the island; and the desire to furnish the most prompt and effectual relief; are among the principal causes which have created the wish that you should undertake the expedition. In its faithful execution, and beneficial results, I have strong confidence; and am, dear sir, very respectfully, yours, SAM'L L. SOUTHARD.

JOHN RODGERS, Esq. *Capt. U. S. Navy, President Naval Board.*

The Secretary of the Navy to Commodore Rodgers.

NAVY DEPARTMENT, *29th September*, 1823.

SIR: You will proceed, in the schooner Shark, from New-York to Thompson's Island, as speedily as circumstances will permit, taking with you Surgeons Marshall, Heerman, Harris, and Washington, who will obey your orders, and render all the assistance in their power in accomplishing the objects of your expedition. If either of them is prevented from joining you before you sail, you will require the attendance of Surgeon Hoffman, or any other of the surgeons, at New-York, to supply his place.

If any officers be wanting to make up the complement of the Shark, you will select such as are necessary, at New-York. When you shall arrive at Thompson's Island, you will investigate, with the utmost care, the origin, progress, and present state, of the sickness, which prevails on the island, and in the squadron; the condition of all the vessels which are there; the localities of the station, in reference to health; and every matter which may be necessary and proper, to enable you to form a correct opinion, both of the propriety of continuing the vessels at that station, and of using it hereafter, during the sickly season.

After having made the necessary inquiries, you will either take such measures as shall seem proper, in reference to the health and comfort of the squadron, *leaving it where it is;* or you will order its removal, *for the present*, to Pensacola, Norfolk, or some more northern port. In either event, an early and minute report on this subject, to this Department, is desirable.

Uncertainty as to the present state of Commodore Porter's health, furnishes one strong motive for your visit. If his health permits, he will furnish the most safe information and best assistance in accomplishing your object; and if the squadron be left there, he will remain in command, if his health permit, and it be his wish. If his health require a visit to the United States, you will place some other in command, and make report thereof as soon as practicable.

The surgeons who go with you will render to the sick all the aid in their power, consistently with the other duties they have to perform; and they will return with you, and join the several stations

from which they are taken, reporting to this Department the time of their arrival.

You will be at liberty to return in the Shark, Grampus, or any other vessel at the station, which you shall think best for service. It is supposed you may accomplish the objects in view, and return to this place, in about five weeks from the time the Shark sails.

I am, very respectfully, sir, your most obedient servant,

SAM'L L. SOUTHARD.

JOHN RODGERS, Esq. *Capt. U. S. Navy, President of the Navy Board.*

Com. Rodgers to the Secretary of the Navy.

No. 1.

U. S. SCHOONER SHARK, *Hampton Roads, Nov.* 16, 1823.

SIR: In the prosecution of your instructions of the 29th of Sept. last, you have already been informed of the time of my departure from New-York, in the United States schooner Shark.

I have now the honour to inform you that, on the 23d of October, I reached Thompson's Island, accompanied by surgeons Harris, Washington, and Hoffman, of the Navy, after a passage of seventeen days, in which we experienced much rough disagreeable weather, it raining more or less every day but one, for thirteen days.

On reaching the island, and not finding any of the public vessels of war except the Porpoise, the first objects to which I directed my attention, were, to ascertain the state and condition of the sick remaining on it; and, as far as practicable, the cause or causes which had produced such disastrous consequences to the health of the officers, seamen, and marines, stationed on the island, and on board of several of the vessels, which had previously had access to it as a rendezvous; for this purpose, I accordingly addressed a letter (of which the enclosed, No. 1, is a copy) to Surgeons Harris, Washington, and Hoffman. By their answer, (No. 2, herewith enclosed,) you will perceive that they do not consider the disease attributable entirely to any one cause, but to a variety of causes, such as they have described.

That the reasons which they have assigned are correct, there can be but little doubt; but to which of them is to be attributed the most powerful agency in producing the disease, is still a matter of speculation, or, at least, very questionable.

The island, it is much to be admitted, does contain localities of a character calculated, when assisted by other causes, and perhaps only slight ones too, to generate bilious, and probably malignant fevers: yet I must confess that I still entertain doubts, whether those causes have had, in the present instance, so decisive an agency in producing the late fatal malady, as they may, at first view, seem to have had.

From the little experience I have had, my opinion is, that the climate of Thompson's Island is similar to that of the West India islands generally; that its air is perhaps less salubrious than some, but more so than others; and that, notwithstanding the objection

which may be urged against it, on account of particular defects arising from its small elevation above the level of the sea, the uneveness of its surface, and the many salt and fresh water ponds which it is said to contain, still, that it is, from the excellence of its harbour, and its peculiar station on the map of this Western Hemisphere, too important an object, in a political and commercial point of view, to be suffered to remain unoccupied and unregarded: for, admitting its climate, in its present unimproved state, to be as unfriendly to health as even that of the colony of Surinam, it is, notwithstanding, susceptible of being so improved, or, at least, the dangers attending it so much diminished, by artificial means, (such as I will hereafter describe,) as to render the objections to it, if not harmless, it least comparatively small.

Previous to leaving the island, on the 3d inst. I had sent, by the advice of surgeons Harris, Washington, Hoffman, and Williamson, (as I have already informed you,) all the sick, whose situations appeared to require a remove to a more northern climate. Those who still remained at the island, at the time of my departure, were all well, except some convalescents, and a few with mild intermittent fevers; all of whom, it was believed, however, would be restored to health again by the return of cooler weather; indeed, for the last three days previous to our sailing, the wind had prevailed with much force from the north, and had rendered the air comparatively much purer, cooler, and exhilerating, than it had been for some days before; so much so, as to induce a belief that the season of health had commenced, and that its salutary effects would be immediately felt by those who have suffered by the long continuance of heat.

Previous to leaving the Island, I made such arrangements, and saw things placed upon such a footing, as to warrant the most sanguine anticipation of favourable results, and such as might have been expected, had Commodore Porter's health permitted him to continue on the station.

For the few changes which I found it necessary to make in the disposition of the several vessels left on the station, permit me to refer you to the accompanying papers 1, 2, 3, 4, 5, 6, 7, 8, 9.

With great respect, I have the honour to be, sir, your ob't serv't.

JOHN RODGERS.

The Hon. SAMUEL L. SOUTHARD, *Secretary of the Navy, Washington.*

Doctors Harris, Washington, and Hoffman, to the Secretary of the Navy.

No. 2.

U. S. SCHOONER SHARK, *Thompson's Island, Oct. 29th*, 1823.

SIR: In conformity with the instructions contained in your communication of the 24th instant, we have carefully inquired into, and deliberately considered, the various points to which you have directed our attention.

On examining this island, we find that it is of a secon lay calcareous formation, and is thinly overspread with a light vegetable mould.

The shores are somewhat elevated above the interior grounds, by the surf continually throwing up pulverized shells, which give a concave form to its superfices. It is thickly covered with small trees and shrubbery, principally of the mangrove variety, and grasses of several species grow with great luxuriance.

So far as our observations have enabled us to determine, we are of opinion that nearly one half of the island is occupied by salt and fresh water ponds.

It has been ascertained, that the surfaces of these ponds are on a level with the surrounding ocean, yet but one of them has any connexion with it, by reason of the natural embankments to which we have already alluded.

The purest water of the island is in some degree brackish ; but has not, so far as we can learn, produced any unfriendly effect on the health of those who have used it freely as a drink.

During the dry season, which continues from about the middle of September to the middle of June, many of the ponds either dry up, or shrink considerably within the boundaries to which they are dilated during the rainy season.

The surface being thus imperfectly overflowed, presents a mass of vegetable and animal matter, to which the climate adds every other circumstance necessary to give miasm its most powerful effect on the human frame. The gales and retiring tides frequently deposite on the shores a quantity of sea-weed, which undergoes a rapid decomposition, and thus contributes, in a limited extent, to vitiate the atmosphere.

To these miasmatic causes of disease, were added others of equal, if not greater magnitude.

They have arisen,

1. From the sudden exposure of northern constitutions to a tropical climate, at a period when the ordinary relaxing effects of a change from a cold to a warm season were aggravated by a difference of fourteen or fifteen degrees of southern latitude. From this cause, they were, in the space of two or three weeks, operated upon by an increase of temperature of at least fifty degrees.

2. From the great fatigue and exposure, by day and night, of the officers and crews engaged in the boat service, and from the want of comfortable quarters for those who had encamped on the island.

3. From irregular, and, frequently, intemperate habits.

4 From being often deprived of fresh and wholesome provisions.

5. From the continued annoyance of moschetoes and sand-flies, which deprived the men of their accustomed rest. So insupportable, indeed, became these troublesome insects, that the men were frequently obliged to retire to the beach, where they walked the greater part of the night. Others, we have been informed by the officers of the station, would row off in boats some distance from the shore, and thus expose themselves either to the heavy dews or drenching rains peculiar to this climate.

6. From being operated upon by the depressing passions, arising

from apprehension, awakened by the prevailing epidemic, and by the obvious want of comfort of those who were affected with disease.

These fruitful sources of fever will abundantly account for their extent and fatality. Taking into consideration the great liability of persons from the higher latitudes, of disease, when even slightly exposed to hardships in the tropics, it ought not to be a subject of surprise, that the severely arduous service in which our officers and crews have been engaged, have occasioned so many sacrifices of valuable lives.

The squadron under the command of Commodore Porter sailed from Norfolk on the 14th of February, proceeded directly to the West Indies, as far south as St. Domingo, and then, returning North, took possession of this island on the 3d of April.

The first cases of fever which presented themselves to the notice of Dr. Williamson, the surgeon of the station, were of a bilious character, and which readily yielded to the agency of medicine.

On the 20th of April, a servant in the family of Mr. Symington, was attacked with yellow fever. With the exception of this case, bilious fever continued the prevalent disease until early in June, when it assumed, in many instances, a highly malignant form. This disease now commenced on board the store ship Decoy, which was rendered unhealthful by the impurity of her hold. A quantity of ballast was put a board from this island, containing shell-fish and sea-weed, which, by the heat of a tropical climate, was thrown into a state of putrifactive fermentation. Two of the cases, however, which occurred on board this vessel, were contracted by imprudent exposure to a noon-day heat, in the streets of Havana.

About the latter end of July the yellow fever prevailed, with great malignancy, at all the establishments on the island. From the various causes already stated, the disease in very many instances necessarily proved fatal.

The malignant fever continued epidemic until about the first of October, when its type again changed to an intermittent.

We have been unable to ascertain the precise number of deaths, in consequence of the absence of the medical officers who had charge of the Allenton hospital.

It appears, from the report of Dr. Williamson, that there are fifty-nine persons now sick at the different hospitals on the island. We have visited these establishments, and have found the patients sinking under the influence of debility, despondency, and the ravages of disease. Such of them as recover, commonly relapse in the course of a day or two, after being restored to duty. As in relapses generally, each succeeding attack becomes more unmanageable.

It appears then, that they cannot be restored to perfect health in their present situation; and being, in this state, only a burden to the public service, we do, from motives of policy, as well as of humanity, respectfully recommend their immediate removal to a more northern station.

We beg further to recommend, that the large brig, now in the

harbour, and which has been already designated as a hospital, should be suitably fitted up for the reception of those who may be hereafter attacked. By anchoring this vessel some distance to the windward of the island, the sick will inhale a pure atmosphere; will be protected in comfortable quarters; and, being without the reach of annoying insects, will enjoy such repose and tranquillity, as are essential to the successful treatment in their diseases.

We have the honour to be, very respectfully, your obedient servants.

THO HARRIS, M. D.
B. WASHINGTON, M. D.
RICH. K. HOFFMAN, M. D.
Surgeons of the Navy.

Com. JOHN RODGERS, *President of the Board of Navy Commissioners.*

Commodore Rodgers to the Secretary of the Navy.

WASHINGTON, *Nov.* 24, 1823.

SIR: In my communication to you, of the 16th instant, I informed you that although objections might be urged to the climate of Thompson's Island, on account of the number of salt and fresh water ponds, and the abundant growth of timber which it contains, yet, even in its present state, and admitting such objections to be well founded, still they might be rendered harmless, or, at any rate, greatly diminished, by the introduction of artificial means.

By the official report of Surgeons Harris, Washington and Hoffman, now in your possession, you have been made acquainted with their opinions respecting the localities of the island, so far as regards the form of its surface, the nature of its soil, timber, and other particulars; in all which, they have given as minute a description as the most unremitting attention, considering the length of time they were there, and the means of information afforded them, would admit.

These, together with the high reputation which those gentlemen sustain for science and professional skill, leave no doubt in my mind that their report upon the subject has been judicious, and such as the time and circumstances under which they visited the island, would seem to point out as being the most safe and discreet; but, after all that has been said, it must be admitted, notwithstanding their unintermitting industry to find out the true causes of the disease, that they were, after considering the only facts presented to their view, obliged to attribute it to a variety of causes, and, among the number, those which are known to be inseparable from the arduous nature of the service in which many of the officers and men were engaged, and the consequent exposure to which they were unavoidably subjected.

This being the case, you will, sir, at once perceive that it must still remain doubtful, whether the air of the island contributed more, or even as much as other causes, in producing the disease; for which reason, I am led to remark, that it might be unsafe to condemn it as a suitable rendezvous for our vessels employed in

the West Indies and Gulf of Mexico, until we shall have had, under different circumstances, more experience of its climate than we have yet had.

As an auxiliary to an extensive and permanent southern naval depot, [perhaps at Pensacola] such as a proper security for our commerce, and the permanent union of the States, seem to render indispensable, it will be found, I am inclined to believe, that the island in question will soon become an object worthy the serious attention and consideration of the Government.

Nature has made it the advance post from which to watch and guard our commerce passing to and from the Mississippi, while, at the same time, its peculiar situation, and the excellence of its harbour, point it out as the most certain key to the commerce of the Havana, to that of the whole Gulf of Mexico, and to the returning trade of Jamaica; and, I venture to predict, that the first important naval contest in which this country shall be engaged, will be in the neighbourhood of this very island.

Without further remark on this interesting subject, permit me, sir, to observe, that, whatever objections may be made to the island as a rendezvous, in its present unimproved and uncultivated state, even these may be rendered harmless, or, at least, measurably unimportant, by substituting the following description of force, for that now employed in the protection of our commerce in the West Indies and Gulf of Mexico.

The Independence 74, depriving her of her lower deck guns, and giving her a crew of four hundred and fifty seamen, ordinary seamen, boys, and marines, with an extra complement of commission officers, and double the usual number of midshipmen; the sloops of war John Adams, Hornet, and such other vessel of that class as can, from time to time, be spared from other service; the brig Spark, and schooners Grampus, Porpoise, and Wild Cat, and five or six barges, such as are now at Thompson's Island, for occasional service.

The vessels particularly purchased for the suppression of piracy, have done all that could reasonably have been expected towards its suppression; indeed, they have searched every nook and corner on the whole coast of Cuba, from which a pirate might be expected to issue; and, besides capturing and destroying all that could be identified as being of this character, they have made impressions not to be erased from the minds of such monsters, so long as we keep a respectable force in their neighbourhood, in readiness to chastise those whose temerity might induce them to renew their depredations, and, which, in the present state of things, notwithstanding the scourging they have received, would be the case, in the absence of such a force as I have described.

On the adoption of the before mentioned force, the other vessels, purchased for the suppression of piracy, might be sold; a circumstance very much to be desired, as their longer employment would be found not only useless, and dangerous to the health and comfort

of those employed in them, but subversive of that discipline by which our navy acquired its character, and for which, at one time, it may be said to have stood unrivaled by any other.

I have the honour to be, with great consideration and respect, Sir, your most obedient servant, JOHN RODGERS.

To the Hon. SAM'L L. SOUTHARD, *Secretary of the Navy.*

Report of the Secretary of the Navy.

NAVY DEPARTMENT, *December 1st*, 1823.

The PRESIDENT *of the United States:*

SIR: In obedience to the request contained in your letter of the 10th ultimo, I submit, respectfully, the following statement of the administration of this Department, during the present year, comprehending the number of vessels commissioned; the number in ordinary, fit for service, or requiring repairs; the progress made in building vessels; with the disbursements of the Department, and the service in which the vessels have been employed; with such observations on the whole subject as are deemed proper.

Letter 1, from the Commissioners of the Navy, with papers A, B, C, D, and E, which accompany it, exhibit.

1. The vessels of war in commission, with the service in which they are employed. See A.

2. The vessels in ordinary, on the Atlantic board, and on the Lakes, with the state of repairs of each vessel.—B and C.

3. The progress made in building, under the law "to increase the Navy of the United States"—D. By this, it appears that four ships of the line have heretofore been built, and that five ships of the line, and five frigates of the first class, are now building; some of which *might* be launched in thirty days; and all, except one, in one hundred and twenty days.

4. A general view of the improvements at the several building yards. In some of the yards, additional improvements are now necessary for their comfortable and economical administration.

5. The disbursements of the Department during the three first quarters of the present year, up to the 30th September. (2.) The disbursements of the year 1822, appear by the report made to Congress in the month of February last. It appears that $1,984,520 74 have been drawn from the Treasury between the 1st January and the 30th September, leaving, on the latter day, $2,218,168 66 unexpended of the amount applicable to the service of the year. Of this unexpended balance, a large proportion will be used during the remaining quarter; and a minute statement of the whole will be furnished to Congress in the annual report required from this Department.

On paper A, it is to be remarked, that the frigate Constitution, sloop of war Ontario, and schooner Nonsuch, are in the Mediterranean, under the command of Captain Jones. No change in the amount of force, in that sea, has been made within the year. It

has been found competent to all the purposes for which it is maintained. Our commerce there has been amply protected; the officers and seamen have enjoyed good health, and no circumstance has occurred worthy of particular notice. While our relations with other powers continue friendly, any large augmentation of that portion of our naval force will not be necessary. In the coming year, it is not proposed materially to increase or diminish it. The Cyane and Erie will, in a short time, relieve the Constitution and Ontario, that they may return home, discharge their crews, whose term of service will soon expire, refit, and resume their station. For this purpose, the Erie, Captain Deacon, sailed from New York on the 8th November, and the Cyane, Captain Creighton, will sail in a few days.

On the same paper, A, it is to be further remarked, that the Franklin, ship of the line, and the schooner Dolphin, of 12 guns, are still in the Pacific Ocean, where they have remained for more than two years, under the command of Captain Stewart. By the presence of this force on the coasts of Chili and Peru, depredations on our growing commerce have been, in a great degree, prevented, and respect for our interests and flag secured.

Capt. Stewart will return to the United States in the course of this winter, or early in the ensuing spring; and, in the place of the Franklin, it is proposed to substitute the frigate United States, and the Peacock, sloop of war, of 18 guns. Such a division of the force, it is believed, will more extensively protect the flag and commerce of the United States, and permit the commanding officer, with the larger vessel, to be absent from the usual cruising grounds for a short time, should circumstances render such absence necessary. Captain Hull will sail, in a few days, from Norfolk, in command of these vessels.

The Cyane, Captain Spence, and the Shark, commanded by Lieut. M. C. Perry, have, for short periods, cruised upon the coast of Africa, to carry into effect the intentions of the government, in the suppression of the slave trade, and the protection of the agency for liberated Africans, established at Cape Messurado.

While Captain Spence was at Sierra Leone and the Cape, he fitted out the Augusta, a small schooner, which was found on the coast, deserted and dismantled, and placed under the command of Lieut. Dashiell, to cruise in the neighbourhood of the Cape, with the conviction that its presence was at that time essential to the protection of the Agency, and might be useful in preventing the trafic in slaves. It still remains upon that coast.

During the time that Captain Spence and Lieutenant Perry were cruising, they neither saw nor heard of any vessel, under the American flag, engaged in the slave trade. If citizens of the United States are still employed in that traffic, they seem to have been driven to conceal themselves under the flags of other nations.

The agency at Cape Messurado, for receiving the re-captured and liberated Africans, enjoyed favourable rospects, until late last

fall, when it was assailed by a large body of the natives, and in danger of being entirely destroyed. Some of the liberated Africans were killed in the contest. The extracts of letters from Captain Spence, Lieutenant Perry, and Messrs. Ashmun and Ayres, will shew the manner in which they were able to defend themselves, with the aid of a midshipman and several men belonging to a British vessel of war, then in the neighbourhood. The establishment having passed through this trial, now promises to accomplish all the benefits anticipated from it. In order to afford it the necessary protection, and to continue our exertions to repress the slave trade, it is proposed, as the most efficient and economical arrangement, that the commander of the West India squadron shall, from time to time, detach one or more of the vessels belonging to his command, to cruise along the African coast, occasionally touching at Cape Messurado, and ministering to the wants of the people there; and following, in their return, the usual track of the slave ships.

Eleven Africans, none of whom could speak the English language, were some months ago, brought by a Capt. Chase, as mariners, into the port of Baltimore, and were there taken into the possession of the officers of the government, and an investigation instituted into the supposed violation of our laws in introducing them. By means of an interpreter, who understood the languages of all, except one or two or them, it was, subsequently, discovered, that they belonged to tribes in the neighbourhood of Messurado, and that some of them were of the head men of their tribes. It was therefore believed, that their restoration by this Government would produce a salutary effect; and an inquiry was directed to be made through the interpreter, whether they were willing to return to Africa.—Such being found to be their wish, they were, in the early part of October, sent to our agent at Messurado, with directions to permit their return to their several homes, by the best and most expeditious means.

So far as the Department is yet apprized of the expenditures for the agency during the present year, they have amounted to $7,287 48 cents.

On the western side of the Atlantic ocean, and in the Gulf of Mexico, the operations of our naval force have been more active. Several vessels were in commission there, at the close of the last year. To these were added, under the authority of the law passed at the last session of Congress, "authorizing an additional naval force for the suppression of piracy", the Steam Galliot Sea Gull; eight small schooners, the Grey Hound, Jackall, Fox, Wild Cat, Beagle, Ferret, Weazel, and Terrier; five barges, the Musquito, Gnat, Midge, Sandfly, and Gallinipper; and one transport ship, the Decoy.

Capt. David Porter was appointed to the command of the squadron, and sailed from Norfolk about the 10th of February last. His station was at Thompson's Island, from which he despatched his vessels, in such way as he judged best suited to attain his objects.

The annexed extracts from his letters and reports exhibit the results.

The size of most of the vessels, the nature of the duties, and the exposure of the officers and men, called for a display of perseverance and fortitude seldom required of those engaged in our service—but the call was well answered. Every thing was accomplished, which was anticipated from the expedition. Piracy, as a system, has been repressed, in the neighbourhood of the Island of Cuba, and now requires only to be watched, by a proper force, to be prevented from afflicting commerce, any further, in that quarter. The public authorities of the Island of Cuba manifested a friendly disposition towards the squadron, and rendered much assistance in the pursuit of its objects.

On the 5th March, as Lieut. Cocke, in obedience to the orders of Capt. Porter, was entering the harbour of St. Johns, Porto Rico, in the schooner Fox, he was killed by a shot from the castle. Extracts from the correspondence between Capt. Porter, and the Government of the island on this subject, are annexed.

The squadron was healthy and prosperous, until about the middle of August, when a malignant fever broke out at the station, and destroyed many valuable lives. The first reports of this calamity were brought to the Department on the 17th September. At the time they left the island, Captain Porter and most of the medical officers were sick, and there was great cause to fear that the squadron would be deprived of its commanding officer, and of the medical assistance necessary to its safety. Under these circumstances it was considered expedient to send to the station an officer of rank and experience, with a sufficient number of surgeons, to furnish, in any event, the aid necessary for the safety and proper conduct of the squadron, with power to remove it, should that be found necessary. Captain Rodgers cheerfully consented to encounter the hazard and responsibility attendant on such an expedition. He sailed from New-York as soon as a vessel could be prepared for the purpose; but, before his arrival, Captain Porter had become convalescent, and, with the greater part of the squadron, had returned to the United States. The reports of these officers will fully explain their views of the causes of the disease, and the means by which a recurrence of it may be prevented.

It is believed that the Florida station is incalculably important to some of the best interests of this Union; and that it ought not to be deserted until every expedient has failed to render it a secure and healthy position for our vessels. I feel great confidence in the opinion that it may be made such, without encountering great hazard of the evils we have heretofore suffered.

For the protection of commerce, and the suppression of piracy in the Western Atlantic and Gulf of Mexico, it is proposed, in the ensuing year, to continue Thompson's Island as the station for the vessels employed in those objects; to place there a ship of the line, armed and manned as a frigate, for which purpose the Inde-

pendence is well fitted ; and to attach to the command the John Adams and Hornet, and one other sloop of war, with four of the larger schooners, the Grampus, Porpoise, Shark, and Spark, one of the smaller schooners, and the barges. This force is competent to protect all our interests. The ship of the line, placed in a proper position, will afford comfortable accommodations to those who are obliged to remain at the station, and prevent the necessity of intercourse with the island, when danger is suspected. The cruises of the other vessels, except those which visit the Coast of Africa, may be limited to four, five, or six weeks, and on their return, their crews may be exchanged for others, who, during that time, have been stationary. By these means, and a proper attention to cleanliness, both in the men and the vessels, and avoiding intercourse with places known to be sickly, the health of all will probably be preserved. For the proper execution of such a system, full reliance may be placed in our officers. The island itself, by clearing, draining, and cultivating, will, after a time, probably become more healthful.

It will be perceived, that this distribution of force includes only one of the small schooners. They were admirably calculated for the end for which they were purchased, and have effected it. But piracy being for the present repressed, and requiring only such a force as will prevent its revival, they are no longer necessary ; and, being both very expensive, and utterly subversive of all discipline, it is respectfully recommended that they be sold, retaining one for the present season ; after which it may be sold. The Porpoise and a small schooner have been employed under the command of Lieut. Ramage, in the survey of a part of the Florida Coast. It is proposed that those vessels be placed under the control of the commanding officer of the Florida station ; and if it be found proper to continue the survey, that the instructions for that purpose be given to that officer.

Many of the officers having died during the present year, it is thought proper to annex a list of the times and places of their deaths.

No observations on the organization and discipline of the Navy seem to be required. That subject has heretofore been presented for consideration.

Very respectfully, I have the honour to be, your most obedient servant, SAM'L L. SOUTHARD.

The Secretary of the Navy to the President of the United States.

NAVY DEPARTMENT, *December* 1, 1824.

SIR : I have the honour to present to you the following report, exhibiting the administration of this Department during the present year.

There are now in commission for the sea service, the vessels named in paper A, subjoined to this report.

Nothing, worthy of particular observation, has occurred with our squadron in the Mediterranean.

It has been maintained at the extent which was proposed in the report of last year, and has afforded the necessary protection to our commerce there. The unfriendly relations, however, which exist between Algiers and some of the governments of Europe, and the effects not unlikely to be felt, upon our political and commercial interests in that quarter, with other important considerations, have been supposed to render it expedient to augment our force. With this view, the North Carolina has been prepared, and will sail in a few days. The squadron will then consist of the ship of the line North Carolina, frigate Constitution, corvette Cyane, the sloops of war Erie and Ontario, and schooner Nonsuch; and will be under the command of Commodore Rodgers, who has been, for several years past, the President of the Board of Navy Commissioners, and whose high qualifications are so well known and justly estimated by the nation.

Our naval force in the Atlantic and Gulf of Mexico, has continued under the command of Commodore Porter. By direction of the Department, he has, from time to time, despatched one of the vessels of his squadron to the Coast of Africa, to touch at Cape Messurado, minister to the wants of the agency there, and return by the usual track of the slave ships. None of these, or any other of our public ships, have found vessels engaged in the slave trade, under the flag of the United States, and in such circumstances as to justify their being seized and sent in for adjudication: And, although it is known, that the trade still exists, to a most lamentable extent, yet, as it is seldom, if ever, carried on under our own flag, it is impossible, with the existing regulations and instructions, to afford very efficient aid in exterminating it. That object can only be accomplished by the combined effort of the maritime nations, each yielding to the others the facilities necessary to detect the traffic under its own flag. The agency for recaptured Africans has been maintained, in the same manner as in the last year. The eleven negroes which were taken from Captain Chase, at Baltimore, and sent to the agency, were restored to their homes, under circumstances very gratifying to humanity, and calculated to produce a good effect upon their several tribes. The near relations of some of them were on the shore when they arrived, manifested much sensibility at their unexpected return, and furnished safe means of restoring them to their families.

The agent, Dr. Ayres, was compelled, by enfeebled health, to return to the United States, and left Mr. Ashmun as acting agent. He likewise was obliged, by the same cause, to be absent for a time; inconveniences necessarily resulted, and it was thought expedient to send the Rev. Mr. Gurley to examine into the situation of the agency, with directions to make certain arrangements, should circumstances require them. His report, marked B, with other papers, will be annexed, should his health enable him to make it in

time, and will show the condition and prospects of the agency. The principal difficulties which have been encountered there, have arisen from the want of a fit position and suitable accommodations for the agent, and the recaptured Africans, on their arrival on the coast. These difficulties have been, in a great degree, overcome, and will, with the expense, be regulary diminished, as the establishment made by the Colonization Society increases, and is rendered more permanent and well regulated, furnishing facilities for all the objects, for which the agency was created. The expenditures during the year, so far as they are yet known, of the appropriation for the prohibition of the slave trade, has amounted to $15,326 02, and there remains, of that fund, a balance of $47,391 39.

The manner in which the force assigned to the protection of our commerce, and the suppression of piracy, in the West Indies, has been employed, will be seen by the annexed letters and reports of Commodore Porter, marked C. The activity, zeal, and enterprize of our officers, have continued to command approbation. All the vessels have been kept uniformly and busily employed, where the danger was believed to be the greatest, except for short periods, when the Commander supposed it necessary that they should return to the United States, to receive provisions, repairs, and men, and for other objects essential to their health, comfort, and efficiency. No complaints have reached this Department, of injury from privateers of Porto Rico, or other Spanish possessions, nor have our cruisers found any violating our rights. A few small piratical vessels, and some boats, have been taken, and establishments broken up, and much salutary protection afforded to our commerce. The force employed, however, has been too small, constantly to watch every part of a coast, so extensive as that of the islands and the shores of the Gulf of Mexico, and some piratical depredations have therefore been committed; but they are of a character, though, perhaps, not less bloody and fatal to the sufferers, yet differing widely from those which first excited the sympathy of the public, and exertions of the Government. There are few, if any, piratical vessels of a large size in the neighbourhood of Cuba, and none are now seen at a distance from the land; but the pirates conceal themselves, with their boats, in small creeks, bays, and inlets, and finding vessels becalmed, or in a defenceless situation, assail and destroy them. When discovered, they readily and safely retreat into the country, where our forces cannot follow, and by the plunder which they have obtained, and which they sell at prices low and tempting to the population, and by the apprehensions which they are able to create in those who would otherwise give information, they remain secure, and mingle, at pleasure, in the business of the towns, and transactions of society, and acquire all the information necessary to accomplish their purposes. Against such a system, no naval force, within the control of this Department, can afford complete security, unless aided by the cordial, unwavering and energetic co-operation of the local governments;

a co-operation which would render their lurking places on land unsafe, and make punishment the certain consequence of detection. Unless this co-operation be obtained, additional means ought to be entrusted to the Executive, to be used in such manner as experience may dictate.

The health of the squadron, and of Thompson's Island, has been much better than during the last season; yet many of our officers, and among them Commodore Porter, have suffered severely from disease, and several have died; most of the latter have fallen victims to the necessity, real or imagined, of visiting unhealthy places upon shore, which they were warned as much as possible to avoid, and which a sense of duty, no doubt, induced them to visit. A list of those who have died during the year, on that and other stations, will be annexed, marked D.

Some improvements have been made, and others are proposed, at Thompson's Island, by cutting the timber, clearing and draining the ground, and building store-houses, and, if the means are afforded, it is confidently believed, that it will be made both comparatively comfortable and healthy, before the next summer and fall. A balance of $28,784 69 still remains of the appropriation of December, 1822, "authorizing an additional naval force for the suppression of piracy," but claims exist against it, to a large amount, which have not yet been presented.

Two of the small schooners, the Greyhound and the Jackall, purchased under the authority of that act, have been found "so much out of repair, that it was not for the interest of the United States to repair them," and were disposed of; and one other, the Wild Cat, it is feared, is lost, with her officers and crew, in a passage from Havana to Key West.

The force on that station has been in this way somewhat reduced, and it has been considered expedient to augment it, by the addition of the frigate Constellation, which will be ready to join it, as soon as men can be enlisted for the purpose. One of the sloops of war, now in the Mediterranean, will, probably, be ordered there in the spring, should circumstances permit.

The surveys directed by the act, entitled "An act authorizing an examination and survey of the Harbour of Charleston, in South Carolina, of St. Mary's in Georgia, and of the Coast of Florida, and for other purposes," have not yet been completed.

Competent naval officers, have been ordered upon the service. It was thought useful to unite with them, in a part of the examinations, one or more of the Corps of Engineers, which could not be effected.

On application to the War Department, it was found that all the officers of that corps were so engaged, as to prevent the Secretary from detailing even one for this service. It is hoped, however, that such information has, in the mean time, been procured, respecting the places named, except St. Mary's, as will accomplish the purpose for which the law was passed, should Congress act upon

the subject at this Session. Should it be proposed, however, to fix upon a site for a Naval Depot in the Gulf of Mexico, I would respectfully suggest the propriety of entrusting the selection and purchase to the Department, after further and satisfactory surveys shall have been made.

Commodore Stewart, in the Franklin, arrived at New-York in the month of August, having left Commodore Hull, with the frigate United States, the sloop of war Peacock, and the schooner Dolphin, in the Pacific. It is hoped that this force will be able to prevent depredations on our important commerce in that sea, and secure respect for our flag. Our commerce, however, has increased so rapidly there, and is scattered over so large a space, that an addition of one or more vessels would be made, if they were within the control of the Department.

This addition will become indispensable, should the Government be disposed to make permanent provision for the protection of our commerce, and other interests in the neighbourhood of Columbia river, and on the northwest coast. Constant experience shews the importance of such augmentation of the number of our vessels, as will enable the Government to add to the force both in the Atlantic and Pacific. Inconveniences are felt, and losses are sustained, by our citizens in both oceans, which might be prevented, were the means for their protection enlarged.

In the course of the year, several regulations have been adopted to promote efficiency and economy in the medical and other departments of the service, and some good is anticipated from them. It is impossible, however, to do all which is desired without the aid of Congress. Several laws seem necessary to render the establishment economical and efficient. Among them are those which were under consideration at the last session, for building ten sloops of war, and re-organizing the Navy. To these ought to be added a revision of the law for the better government of the Navy, and the system of Courts Martial. But especially some provision should be made for the education and instruction of the younger officers. We have now the light of experience on this point in the army, and its salutary effects are very manifest. Instruction is not less necessary to the Navy than to the Army. I refer to the views taken of some of these subjects in the reports made during the last Session, and it will be my duty to develope them more fully in answer to a resolution of the Senate now before me.

The expenditures of the year are submitted in a report from the Second Comptroller, marked F, and the estimates for the next year is one, from the Commissioners of the Navy, marked G. In the latter, it will be found that estimates have been made of the expense of certain necessary improvements at Thompson's Island, and for the repairs of four of our frigates, which policy and economy require to be placed in such a situation, that their services can be commanded whenever they shall be necessary.

We have, at present, no frigate which could be sent to sea, with-

out large repairs, creating a delay which, under certain circumstances, might be injurious to the public interest.

The general estimate comprehends the several heads of expenditure, in the form supposed to be best fitted for keeping the accounts, with plainness and accuracy, most easily explained, best adapted to a rigid investigation of the expenses of the naval service, and, as far as practicable, conformed to the views of the House of Representatives at the last Session, as understood at the Department. It is accompanied by explanatory statements of the several items, in great detail, exhibiting the propriety of the estimate, and the necessity of the appropriation.

The estimates for the Marine Corps, with the explanatory statements, are added and marked H.

I have the honour to be, with great respect, Sir, your most obedient servant, SAM'L L. SOUTHARD.

To the PRESIDENT *of the United States.*

(A.)

VESSELS of the United States Navy in commission—1825.

Names.	*Rate.*	*No. of guns.*	*Station.*
North Carolina	Ship of the line	74	Mediterranean
Constitution	Frigate	44	do
United States	do	44	Pacific
Constellation	do	36	West India Sea
John Adams	Corvette	24	do
Cyane	do	24	Mediterranean
Erie	Sloop	18	do
Ontario	do	18	do
Hornet	do	18	West India Sea
Peacock	do	18	Pacific
Spark	Brig	12	West India Sea
Porpoise	Schooner	12	do
Grampus	do	12	do
Shark	do	12	do
Dolphin	do	12	Pacific
Nonsuch	do	12	Mediterranean
Decoy	Store ship	6	West India Sea
Sea Gull	Brig	3	do
Ferret	Schooner	3	do
Beagle	do	3	do
Weazel	do	3	do
Fox	do	3	do
Terrier	do	3	do

C.

Copy of a letter addressed to the Honourable Benjamin W. Crowninshield, Chairman of the Naval Committee in the House of Representatives.

NAVY DEPARTMENT, *Dec. 21st*, 1824.

SIR: I have the honour to acknowledge the receipt of your let-

ter of the 14th inst. making certain inquiries respecting the suppression of piracy, to which I submit the following answer.

The nature and extent of the force required, must necessarily be regulated by the nature and extent of the evil to be repressed.—The views of the Department. on this latter point, are contained in the annual report made to the President of the United States, and communicated by him to Congress, with his message, and to which I beg leave to refer you.

There have lately been very few, if any, vessels of a large size, engaged in piratical depredations, at a distance from the land. The naval force which has been employed, and which is stated in the report referred to, has succeeded in driving away, or destroying, vessels of that description, and has thus effected the immediate object for which it was created. But the evil has assumed another shape, for which this force does not seem to be well fitted. Our vessels, even the smallest, cannot follow the pirates into many of the creeks and inlets to which they resort—this must always be done in boats, which cannot be carried by them in sufficient numbers to be effectual; nor can the greater part of them, on account of their size, and the want of accommodations for water and stores, remain long at sea, so as permanently and effectually to watch even the most suspected places.

I would, therefore, respectfully recommend three or more frigates, or sloops of war, as an addition to the force now in the West Indies and Gulf of Mexico, or as a substitute for the small vessels. The sloops would be as competent to the object as the frigates, and would be much less expensive. We cannot, however, detach that, or even a less number, from the stations where they now are, without weakening our squadrons too much.

It will be necessary to build them which can be done in less time, and at less expense, than would require to repair and fit for sea the same number of frigates. Two, or perhaps three, might be finished in four or five months. These vessels would be able to lie or cruise steadily, and for long periods, where their presence was most needed; and, being well provided with boats, could pursue into any waters where escape was attempted.

In addition to this provision, our officers should be authorized to pursue the pirates wherever they may fly. The authority which has heretofore been given on this point, will be seen by the extracts from the orders to Com. Porter, hereunto annexed, and marked A. The right to follow should be extended to the settled as well as the unsettled parts of the Islands; and, should this prove ineffectual, a resort will be necessary to such a general and rigorous blockade, as will make both the local Governments and their subjects feel that their interest, as well as their honour, requires a respect for our rights, and the rights of humanity. For such an extremity, the proposed sloops of war will be indispensable. What warnings should be given, or demands made upon Spain, or what negotiations had, with other Governments, before this course be adopted, it is

not my province to suggest. But, as these pirates are, essentially, robbers, living upon the land, and not upon the ocean, if the local Governments cannot, or will not, prevent them from inflicting such serious injuries upon us, we must seek them where they are to be found, and so punish them, as to prevent a repetition of their crimes.

Should the foregoing suggestions be adopted, a law would be necessary, authorizing the building of the sloops of war, with an appropriation of $ 85,000 for the cost of each, and $61,086 50 for the annual support of each. Or the sums mentioned may be added to the estimates for the support of the navy; the amount for building, under the head of building and repairs of vessels; and the other under those of

Pay and subsistence - -	31,391 50
Provisions - - -	15,695 00
Repairs, including wear and tear -	12,000 00
Hospital stores and medicine -	2,000 00
	$61,086 50

In answer to your inquiry on the subject, I would suggest that it is not believed to be proper to designate, in any act of Congress, the disposition of the force; the only effect of which would be to apprize the pirates more fully of the mode and place of attack, and thus enable them more surely to escape.

It is proper to remark, that any naval force which we can apply to this object, will not be sufficiently extensive to cover, at all times, every part of the shores of the Islands and Gulf of Mexico; and that some merchant vessels may, and probably will be caught, without other protection than that which their own strength affords.—Hence, the suggestion of arming them is very obvious, and has been frequently made. The evils to be apprehended from it, however, are equally obvious. No sufficient pledge can be given, that some of them, if armed, and feeling their power, would not abuse it; and, in the present situation of the West Indies, and countries south of us, endanger our friendly relations, and commit acts almost as much to be deprecated, as those against which we are attempting to guard. The natural state of merchant vessels is the peaceful and unarmed state; and although permission to arm might, in this instance, free them from some of the evils to which they would be exposed without such authority, yet it is believed that few, whose only object is fair commerce, would avail themselves of the legal privilege. The expense and inconvenience of arming is great, and would be illy borne by a large part of the commerce now carried on, in that quarter, in American vessels. The danger does not seem to be considered so urgent as to compel them to do it. Convoy has been often declined, rather than submit to slight delays, or changes in the course of the vessel; and it is understood, that insurance is unusually low, and that the offices add little, if any thing, on account of this risk. It may be effected to the West Indies, at one per cent. on the outward, and one on the homeward voyage; and, in some instances, at one and a half, embracing both, which is below the actual expense of arming.

It has been sometimes proposed that the expense should be met by the Government, and protection afforded, by placing on board each vessel a number of marines, or soldiers; but this plan will at once be perceived to be impracticable, when the number of our merchant vessels is considered, with the different routes which they pursue, and the times at which they sail. The remedy must be extremely partial, or the expense enormous. The whole marine corps would, probably, not equal one-fifth of what would be required for a sufficient and equal distribution among all.

It has also been proposed to furnish convoy at stated periods.—This could be done at periods of fifteen or twenty days, from some position on our coast, to some point which is considered beyond the danger. But to this there are, also, obvious objections. It would employ all our force in the Atlantic, and prevent attention to other objects; an evil of too serious a magnitude to be encountered. It would be impossible to extend the convoy throughout the whole cruise; and stopping at a given point, the pirates would immediately transfer and renew their attacks beyond that point, where the vessels would, in that case, be more unprotected than they now are. It would also destroy competition of enterprize among our merchants, and confine them all to the same times and course of navigation; an evil which they well know how to estimate.—They would not accept your protection at such a price.

I do not, then, perceive, in any of the suggestions which have been presented to my mind, so cheap, efficient, and certain a remedy for the evil, as that which I have preferred; and, if it be adopted, we shall, after the proposed vessels are prepared, be enabled to dispose of the small schooners now employed in the West Indies and Gulf of Mexico; a force which has been found exceedingly expensive, and injurious to the discipline and efficiency of the service.

I am, very respectfully, sir, your most obedient servant,

SAM'L L. SOUTHARD.

D.

Extracts of a letter to the Honourable James Lloyd, Chairman of the Committee on Naval Affairs, of the Senate, dated 29th Dec. 1824.

"I have the honour to state, that there are no 'cases of piratical depredations, or other information on the subject, in the possession of the Department, which are not referred to in the report accompanying the President's message to Congress."

"No reports of cases have been received, except those made by naval officers, of such as have come, in some way, under their own observation. No memorandum has been kept of the cases detailed in the public journals, but some of them have, occasionally, been enclosed to the commanding officer of the station, to afford him information in the discharge of his duties."

"The 'additional means' alluded to, as proper to be entrusted to the Executive, if an efficient co-operation of the local governments

could not be obtained, were, three or four frigates or sloops of war, with boats for pursuit of the Pirates; authority to pursue them, wherever they might attempt to escape, and authority to enforce a rigorous blockade, if other efforts should prove ineffectual."

"I have not supposed that it would be expedient to authorize, by law, our merchant vessels to arm. Should Congress entertain a different opinion on this point, and pass a law on the subject, it should embrace 'provisions and restrictions,' similar to those contained in the 3d and 4th sections of the 'Act to authorize the defence of the merchant vessels of the United States against French depredations, passed 25th June, 1798."

Report of the committee on Foreign Relations of the Senate, on so much of the President's Message as relates to Piracy. January 10, 1825.

"The Committee on Foreign Relations submit a Report on so much of the President's Message as relates to Piracies:

That our commerce, for years, has been harrassed, and the lives of our citizens destroyed, by pirates issuing from the colonies of Spain, in the West Indies, is a fact derived not only from the message of the President, but is of universal notoriety. These outrages have been so long and so often repeated, and marked with such atrocious circumstances, that a detail of the particular cases would be as impracticable as unnecessary. Our government, with a view to protect our citizens, has resorted to the means within their power, by stationing a naval force near the places where the pirates resort—a measure also pursued by other powers. Every effort, heretofore, has been unavailing, to put an end to these atrocities. These desperadoes, acquiring confidence from impunity, becoming more ferocious from habit, and multiplying by recruits from the most abandoned of other nations, threaten the most disastrous mischiefs, justly alarming to that highly valuable and most respectable portion of our fellow citizens whose pursuits are on the high seas. It is manifest, as well from facts derived from other sources, as from the message of the President, that a continuance of this evil is ascribable to the asylum afforded the banditti in the colonies of Spain. The government of the United States, cherishing the most amicable disposition towards Spain, has presented the subject with great earnestness to the Spanish government, demanding reparation for the past and security for the future. To these reiterated remonstrances, no answer was returned till very recently, and to this day, all that has been obtained is a *promise* of a satisfactory answer to the applications of the government of the United States: although Spain has been solemnly warned, that, if she did not promptly acquit herself of her obligations to us on this subject, our government would be constrained, from the nature of the outrages, to become its own avenger, and, availing itself of its own resources, protect the commerce and lives of the American citizens from destruction. In the same spirit of conciliation, an appeal has been made to the local authorities, accompanied with a request, that if, from weakness, they

were unable to exterminate the hordes of banditti who took shelter from pursuit within their territories, that permission might be given to our forces to pursue them on land

This has been denied, on the vain punctilio of national dignity. The posture in which Spain now stands, is that of connivance in these injuries, or incapacity to prevent them. "A sovereign who refuses to cause reparation to be made of the damage caused by his subject, or to punish the guilty, or, in short, to deliver him up, renders himself an accomplice in the injury, and becomes responsible for it." If the committee were of opinion that the refusal, on the part of Spain, was wilful, and not the result of inability, they would, with a full view of all the consequences which the measure involves, at once recommend an appeal to the last resort of nations against Spain, and all her dependencies. But, believing, as they do, that courtesy requires that her refusal to do us justice should be placed on the ground of inability—an inability resulting from causes which the committee intentionally forbear to enumerate, they content themselves with recommending only such measures as are believed to be indispensable effectually to reach the mischief. And hence they beg leave to present a bill with suitable provisions for the end designed."

Report from the Navy Department.

NAVY DEPARTMENT, *January 12th*, 1825.

The Secretary of the Navy has the honour to present the following report, in answer to two resolutions of the Senate of the United States, on the subject of piracies; one of which was passed on the 21st of December, 1824, and the other on the 23d of the same month.

Immediately after the passage of the law of the 20th of December, 1822, "authorizing an additional naval force for the suppression of piracy," the vessels contemplated in that act were purchased and prepared for sea, and, with others placed under the command of Captain David Porter. They consisted of the sloops John Adams and Hornet, the brig Spark; the schooners porpoise, Grampus, Alligator, and Shark; the Sea Gull, and eight small schooners; five barges, and one transport ship; in all, seventeen vessels, of different sizes, besides the barges.

On the 14th day of February, 1823, Captain Porter sailed from the United States, under orders dated the 1st of February, 1823, a copy of which is annexed to this report, and marked A.

The manner in which Captain Porter has performed the duty assigned him, and the "information" received from him, will be seen by the reports from this Department to the President of the United States, and communicated by him, with his message, at the commencement of the last and present session of Congress; and by paper marked B, which was unintentionally omitted in the report from this Department on the first of December last.

All the vessels above enumerated except four, have been uniformly employed in the object, so far as their size and the necessity of occasional returns into port for stores and repairs would permit. Of the four vessels above alluded to, the Alligator and Wild Cat have been lost, and the Grey Hound and Jackall were sold, "being so much out of repair that it was not for the interest of the United States to repair the same."

There are now employed in the West Indies and Gulf of Mexico, thirteen vessels and five barges; and the frigate Constellation will join the squadron in a few days, her crew being nearly completed. The disposition of the force has been left principally to the commanding officer, who, being in the region where its services were required, was best able to judge of the positions in which the vessels should be placed, and the particular duties each should perform.

The papers herewith transmitted, marked C and D, having been written in answer to letters from the Chairman of the Committees on Naval Affairs of the Senate and House of Representatives of the United States, it appears to be proper to communicate them as part of the report from this Department.

SAM. L. SOUTHARD.

To the PRESIDENT *of the United States.*

Message, to the Senate of the United States:

In compliance with two resolutions of the Senate, the first of the 21st and the second of the 23d December last, requesting information respecting the injuries which have been sustained by our citizens by piratical depredations, and other details connected therewith; and requesting, also, information of the measures which have been adopted for the suppression of piracy; and whether, in the opinion of the Executive, it will not be necessary to adopt other means for the accomplishment of the object; and, in that event, what other means it will be most advisable to recur to; I herewith transmit a report from the Secretary of State, and likewise a report from the Secretary of the Navy, with the documents referred to in each.

On the very important question submitted to the Executive, as to the necessity of recurring to other more effectual means for the suppression of a practice so destructive of the lives and property of our citizens, I have to observe, that three expedients occur: one by the pursuit of the offenders to the settled as well as the unsettled parts of the island from whence they issue; another, by reprisal on the property of the inhabitants; and a third, by the blockade of the ports of those islands. It will be obvious, that neither of these measures can be resorted to, in a spirit of amity with Spain, otherwise than in a firm belief, that neither the Government of Spain, nor the Government of either of the islands, has the power to suppress that atrocious practice, and that the United States interpose their aid for the accomplishment of an object which is of equal importance to them as well as to us. Acting on this principle, the

facts which justify the proceeding being universally known and felt by all engaged in commerce in that sea, it may fairly be presumed, that neither will the Government of Spain, nor the Government of either of those islands, complain of a resort to either of those measures, or to all of them, should such resort be necessary. It is therefore suggested, that a power, commensurate with either resource, be granted to the Executive, to be exercised according to his discretion, and as circumstances may imperiously require. It is hoped that the manifestation of a policy so decisive will produce the happiest result—that it will rid these seas and this hemisphere of this practice. This hope is strengthened by the belief, that the Government of Spain, and the Governments of the islands, particularly of Cuba, whose Chief is known here, will faithfully co-operate in such measures as may be necessary for the accomplishment of this very important object. To secure such co-operation will be the earnest desire, and, of course, the zealous and persevering effort, of the Executive. JAMES MONROE.

Washington, 13th January, 1825.

Report of the Committee on Naval Affairs of the House of Representatives, on a Resolution of the House of Representatives of 9th December, instructing them to inquire into the expediency of providing an additional Naval Force, and other means for the suppression of Piracy. January 25th, 1825.

That they have had the subjects proposed in the said resolution under their consideration, and have made diligent inquiry into the operations of our naval force, which, for the last two years, has been employed in the Gulf of Mexico, for the protection of our commerce, and the suppression of piracy. In this investigation they feel a satisfaction in stating, that the means employed have displayed the vigilance of the government, and the activity, zeal, and devotion of the officers and seamen who have been assigned to that perilous service; perilous, not from the numbers or courage of the enemy, but from the deleterious effects of a tropical climate upon natives of a more temperate region. The vessels procured for this service were better adapted to a short expedition, than to long and tedious cruises. They were too small to afford the room necessary to preserve the discipline and the health of the officers and seamen assigned to them; yet, they enabled the commander to scour the coast, to penetrate into the shoal waters of the creeks and inlets, to the very margin of the land; and, in effect, the pirates have literally been driven from the ocean, and confined to their fastnesses and haunts upon the land. Accordingly, their principal depredations, for the last twelve or fifteen months, have been confined to occasional sallies in boats and small craft, within one or two leagues of the shore. While these depredations, however, have been more limited in extent and number, they have more frequently been attended with the most desperate and sanguinary destruction of the lives of the unfortunate victims.

It becomes necessary for the government to adapt the force to the

existing character of the evil; and the committee are of opinion that the best species of force which can be employed in future, while the piracies are confined to small craft, are the boats and launches which are attached to larger vessels. Sloops of war of the largest class may be well provided with launches and boats, of which several might be constantly employed in ferretting out these marauders, and bringing them to condign punishment.

But the Committee are of opinion, that, though the addition of three or four sloops to our West-India squadron, might, by constant vigilance, afford great additional security to our commerce and those engaged in it, yet they have reflected that these plunderers easily transfer themselves from one island to another; and when effectually hunted from one of their haunts, they are speedily found in parts where the unarmed trader, having no protection or means of defence, becomes an easy prey. They have, also, recurred to several instances, where a resolute resistance by a small crew of intrepid seamen has repelled the assailants, even when the disparity of force might have been expected to produce a different issue. From which it is manifest, that those wretches, who assume the vocation of pirates, are as dastardly as they are cruel, and may be generally repelled by a well armed crew, though not much exceeding the usual complement of the vessel.

The opinion has been expressed in some of the memorials of our principal cities, that the permission to the merchants to prepare a suitable armament for their defence, would be embraced at least to a sufficient extent to deter, in many instances, the attacks of boats from the shore, or to repel the foe in case he should attempt to carry by boarding. The committee believe, that, if a considerable number of trading vessels should provide themselves for resistance, and a few instances of successful resistance should be the consequence, the effect would be highly salutary, and would greatly discourage these banditti, by rendering their vocation dangerous and fruitless. They are aware that the commerce of the West-Indies is attended with too small profit to warrant any considerable increase of expense to the merchants and owners of vessels: and, as the protection of trade is the duty of the government, as well as required for the prosperity of our revenue, and general resources, they therefore deem it sound policy to rely upon this measure merely as auxiliary to the most energetic efforts; and to the ample means placed at the disposal of the executive.

The committee have not overlooked the notorious fact, that the local authorities of the West-India islands, particularly those of Cuba and Porto Rico, have afforded shelter and protection to the pirates, and have given a character of boldness to their enterprises, which it may be impossible wholly to repress without resorting to measures which may induce those authorities to unite their means in earnest in the extirpation of those foes of the human race.—Whatever may be the personal feelings of some of the local governors, they may, perhaps, find it difficult to restrain the cupidity

by which a great portion of the community are so completely demoralized. In the Island of Porto Rico, a species of legalized plunder has been for several years tolerated, if not encouraged, by the chiefs of the island, which, if not so sanguinary as in other cases, has, in other respects, differed but little from ordinary piracy. It belongs rather to the duty of another committee to devise means suitable to meet an exigency so singular, and, at the same time, demanding the most prompt and vigorous measures.

While the utmost circumspection should be employed in maintaining the rights and dignity of our country, not to violate those of other nations, it cannot be denied, that a scrupulous adherence to the letter of national law, in regard to the territories under the nominal jurisdiction of a nation remote from the scene of action, distracted and feeble at home, and scarcely felt or feared in her remote islands and colonies, must amount to an indefinite denial of redress to our own citizens; must embolden injustice and violence, and impede or frustrate the most vigorous efforts of our naval force in the protection of our commerce against such an unhallowed combination of local jurisdiction and desperate outlaws.

The committee forbear to indicate the course which alone remains to remedy these outrages upon our rights and our dignity, not doubting that, from another source, we may soon see submitted, a plan which comports with our justice and moderation, as well as with our interest and security.

They respectfully submit a bill, in conformity with these views, for the consideration of the House.

Report of the Committee of Foreign Relations of the House of Representatives, on Piracy and Outrages on American Commerce by Spanish Privateers: January 31st, 1825.

The Committee of Foreign Relations, to whom was referred so much of the President's Message to Congress at the opening of the present session, as relates to piracy and the outrages committed upon our commerce by vessels bearing Spanish commissions, and the memorials from different quarters of the Union on the same subjects, availing themselves of the documents accompanying the President's Message to the Senate, of the 13th of January, which have been printed by order of that body, present to the House the result of their deliberations upon the subject submitted to them:

From the commencement of the Revolution, which has terminated in the separation of Spanish Continental America from Old Spain, the commerce of the United States in common with that of all other nations, has suffered frequent outrages from the vessels of the adverse parties, duly commissioned, with doubtful commissions, and from pirates who sought to conceal their true character by the use of the flag of some one of the belligerants. Constant efforts have been made by this Government to redress injuries suffered, and to prevent future outrage. Congress have, at all times, been prepared to give, and have afforded, all the means necessary for these purposes within their province.

The act of the third of March, 1819, was passed specially to protect the commerce of the United States, and punish the crime of piracy. It gave to the President power, (a power, however, which the President possesses without an act of Congress,) to employ the public armed vessels of the United States to protect our merchant vessels and their crews from piratical aggression and depredation, to authorize the detention, capture, and trial, of any armed vessels which attempted any piratical depredation, search, seizure, or restraint of an American vessel It authorized our merchant vessels to capture armed ships not commissioned by a friendly power, and to recapture vessels taken by them, and it directed the condemnation of the vessels so captured or re-captured; it provided for the punishment of the pirates, when convicted by the competent tribunals. This act was limited to one year, but was continued in force by the act of May 15, 1820, for two years, and the first four sections made perpetual by the act of the 30th January, 1823.

The re-establishment of the Constitutional Government in Old Spain, in March, 1820, inspired the strongest hope that the contest between Spain and Spanish Continental America would be soon amicably terminated, in a manner satisfactory to the parties at war, to the commercial and civilized world, and to all the lovers of humanity, justice, and liberty. The first movements of the regenerated government promised a speedy realization of this hope.

The Cortes of Spain directed negotiations to be opened with Spanish America; commissioners were appointed; but the contending parties did not take the same view of the great questions between them Old Spain would not admit the recognition of the independence of the Spanish American Governments, as the basis of negotiation; and the Spanish American Governments would not negotiate without that preliminary recognition. While these abortive attempts at negotiation were made, there was a temporary cessation of hostilities in Venezuela. The war, however, was renewed in Venezuela before the negotiations were broken off. Fortune favoured the Americans; and the European Spaniards were driven from the continent. During this desperate contest, General Morales, the commander of the Spanish forces, issued his extraordinary proclamation, declaring a coast of twelve hundred miles in a state of blockade, and interdicting all foreign commerce with the Spanish Main, as inconsistent with the colonial law of Old Spain. This proclamation has been the fruitful source of most of the evils since suffered by all commercial nations in the West Indies, and in the Gulf of Mexico. Numerous pirates, and swarms of privateermen, (subsequently degenerated into pirates,) have preyed upon all neutral commerce. Protection to that of the United States should have been, if it has not been, afforded, against pirates, by the use of all the necessary means under the control of the Executive—by a vigorous exertion of the naval power; by incessant watchfulness on the seas, and on the coasts infested by them; rigorous examination of all suspected vessels, of every size; ardent

pursuit of the persons found *flagrante delicto*, wherever they sought refuge ; careful prosecution, before the competent tribunals, of all the accused who were taken ; unrelenting severity in inflicting punishment, where guilt was judicially established—against privateersmen, by appeals to the government of Spain, requiring, immediately, redress for the past, and security for the future : if made in vain, application should have been made to Congress, to authorize reprisals, or to declare war, as the extent of the injury, and a due regard to the condition of the Spanish government should have required. A further reference, however, to the past, would not be useful. For the present, and for the future, if legislative provisions are necessary, they should be made.

Piracy at present exists in the same form as in the year 1822, when a species of naval force, supposed to be particularly adapted to suppress it, was placed at the disposal of the Executive. This force was believed to have answered the expectations entertained of it, as the President, at the opening of the last session of Congress, announced that " it had been eminently successful in the accomplishment of its objects." If further experience has shown that this species of force is inadequate to the accomplishment of the object, and that another may be advantageously substituted, there can be no doubt of the propriety of the substitution. This is a point, however, that the Committee do not consider it their duty to examine ; it belongs properly to another committee, the result of whose deliberations upon it has been already presented to the House. The merchants of the United States, who have, with the exception of our seamen, the deepest interest in this subject, suggest the propriety of suffering the owners of vessels to arm for their own defence. There is no law forbidding such defensive armament, nor is any law required to justify it. It is, however, asserted, that the restraints upon the armament of merchant vessels are inconvenient and oppressive, and that they ought to be removed. The only provision on this subject is, that which requires bond and security to be given to prevent an unlawful use of the armed vessel ; a provision which should not be changed—an adherence to which the best interest of commerce requires.

The propriety of authorizing, by law, the pursuit of the Pirates on land, has also been a subject of consideration. The committee do not deem an act of Congress for this purpose necessary. The rule of international law is, that fugatives from the justice of one nation are to be considered in another as strangers entitled to protection, and having a right of residence—on the common principle, that no nation has a right to punish a person who has not offended itself, nor is it bound to assist its neighbour in the execution of its criminal laws. Pirates are criminals against all nations, punishable in every tribunal : the common enemies of mankind ; the duty of all nations, and every man is, to hunt them down, that they may be delivered up to offended justice. Fresh pursuit of enemies into the territory of a common friend, is not universally admitted to be a

right of war. Powerful nations never permit feeble neighbours to enter their territory for this purpose; but enter without scruple in pursuit of their enemies, the territory of such neighbours, unless restrained by the apprehension that the mutual friend seeks a fair occasion to become an ally against them in the war. Practically, the question is one not of right, but of relative power. The pursuit of a mutual enemy into the territory of a friendly or allied power, is a right of war: it cannot be deemed a violation of the sovereignty of that power; it confers a favour, and imposes upon him an obligation of gratitude.

The common enemy cannot avail himself of the prosection of the territory of the third power, but by surrendering himself as prisoner of war; and, in that event, if the force of the pursuer was the cause of the surrender, the pursuer might rightfully claim the benefit of the surrender. Under this rule, the pursuit and capture of pirates any where, and every where, may be justified. The Executive has acted upon it. Instructions have been given to our naval commanders to pursue, and capture, on Spanish territory, pirates who seek refuge or concealment there. The government of Spain has been duly warned of the existence of these orders; it knows that they will be obeyed. No remonstrance has been made by it; no objections have, as far as the committee have been informed, been urged. The acquiescence of Spain is all that should be desired. A distinction is supposed to exist between pursuit of pirates on lands uninhabited, and on those inhabited; and it is imagined that the authority of Congress is necessary to justify pursuit in the latter case, while, in the former, the power of the Executive alone is sufficient. The committee do not admit the correctness of this distinction. Fresh pursuit is justifiable in either case, if necessary to the capture of the pirate. There is greater danger of collision with the friendly power, when the object of pursuit flies into a settled country, and greater care is requisite to avoid giving offence; but the same principles apply to either case, and it is just as necessary that Congress should legislate to justify the capture of pirates, as to authorize the pursuit of them into any place of refuge inhabited or unsettled.

From an attentive examination of the letters of the agent who was sent to Cuba to obtain information, relative to the pirates who have long infested the coast of that island, it would seem that no fresh pursuit on land will eradicate the evil. Authority must exist to search in the suspected settlements for persons believed to be guilty of piracy, and for the evidence of their guilt, and to bring them before our tribunals for trial and punishment. This authority Congress cannot give, without making war upon Spain. It cannot be used without wresting from Spain her municipal jurisdiction. The evil lies too deep to be reached by any ordinary measures, which foreign powers can apply to it.

The government of Spain must give to the local authority what it is said to want—sufficient strength to prevent and to punish crimes:

it must perform its duties, or those who suffer from its neglect or weakness will be driven, by the necessity of the case, to apply the corrective. The Committee would bring more distinctly into view the only efficient remedy, and recommend a resort to it, if they believed sufficient time had elapsed since remonstrances were made by our government to Spain, to prove incontestibly that she wanted either the power or the will to do her duty, although they are aware that the conduct of any government, in applying that remedy, without previous concert with other nations, alike interested in the question, would be liable to misconception, and excite well founded jealousies The Committee cannot doubt that the Executive, applying all proper means to prevent, to detect, and to punish, the crime of piracy, and pressing upon Spain, and her local authorities, that the honour and the interest of Spain requires their best exertions for the same purpose, will not fail to confer with the great commercial nations, on the extraordinary measures to be used. if the object is not speedily accomplished by the faithful exertion of the powers of Spain.

The danger to which our commerce is exposed, and the injuries it has suffered from privateers, acting under regular or irregular commissions, are of a different character, and require a different remedy. The committee understand that outrages of this kind have almost, if not entirely ceased; for those which have been inflicted, or which may hereafter be inflicted, Spain is directly responsible. Reparation must be had; by negotiation, or by the exercise of such powers as may, for that purpose, be vested in the Executive by Congress

To guard against future injury, the safest resource is to enforce promptly ample redress for that which has been suffered The committee have already referred to the injuries suffered in consequence of the proclamation of Morales. Those injuries are not yet redressed. The government of Spain has not attempted to justify a Proclamation declaring, with a naval force insufficient to shut up the smallest port on the coast, a seacoast of twelve hundred miles in a state of blockade, nor the absurd pretension that the property of all neutral nations, is, under the colonial law of Spain, liable to confiscation, if taken on its way to Spanish America; but the property of American citizens captured by privateers from the islands of Porto Rico and Cuba, and from Porto Cabello, is now withheld under these pretensions. The Spanish Government having formally revoked the blockade, gives to the tribunals of Spain an excuse for the condemnation of all property seized prior to that revocation; an excuse of which they do not hesitate to avail themselves. Acting under instructions from the President, of the 28th April, 1823, the Minister of the United States at the Court of Spain demanded satisfaction in January 1824, from that Government, for the outrages committed from Porto Cabello, and the islands of Porto Rico and Cuba, upon the commerce of the United States, and for the wanton murder of one of our gallant officers in the

harbour of St. John's, by the officer commanding the fort at its entrance In Septe:ber, of the same year. Spain was again called upon to indemnify those who had suffered in person or property under the proclamation of blockade, or from the interdiction of neutral commerce to the Spanish Main. In October, the just reclamations of our Government were, for the third time, formally made to the Government of Spain. No satisfaction has been given, no indemnity has been promised, nor has there been even a satisfactory excuse given for the delay to answer the just demands of the Minister of the United States.

The character of the injury sustained, its origin, the period elapsed since it was inflicted, the formal and fruitless demand for reparation for more than twelve months, justify reprisals. An anxious desire not to act harshly to a Government embarrassed by internal difficulties, and enfeebled by recent revolutions; the distance of the seat of the Spanish Government, from the places in which the evils complained of originated; the death of the Minister appointed by the Spanish Government, on the eve of his departure to this country; and the recent selection of another Minister, whose appointment and intended departure for the United States, has been communicated in an official letter, a translation of which is herewith presented to the House; induce the committee not to propose any legislative enactment, under the firm conviction that this forbearance will give to Spain a new motive to make, speedily, ample reparation for the injuries sustained, and that, if it does not produce this desired effect, it will ju-tify, in the eyes of all nations, any and every step Congress may hereafter be compelled to take.

DEPARTMENT OF STATE, *Washington, 24th Jan.* 1825.

SIR: I have the honour of enclosing, herewith, a translation of the only answer yet received from the Spanish Government, to Mr. Nelson's notes on the subject of piracy and outrages on our commerce. It has been received since the Communications to Congress of the previous documents were made.

I am, with great respect, sir, your very humble and obedient ervant, JOHN QUINCY ADAMS.

JOHN FORSYTH, Esq. *Chairman of the Committee of Foreign Relations, H. R. U. S*

[TRANSLATION.]

Mr. Zea Bermudez to Mr. Nelson.

SIR: From the middle of September last, when I took possession of the appointment, which the kindness of the King, my august master, deigned to entrust me, I dedicated, by order of His Majesty, my attention to the different notes presented by you, relative to the claims of the American subjects, who thought themselves entitled to be indemnified by Spain for the losses which they have suffered in the seas of America. A business so complicated, in which considerable interests are involved, presented so much more

difficulty, by how much there were intermingled with it other interests and other claims of Spanish subjects against the government and subjects of the United States.

His Majesty, desirous of preserving the friendship and good harmony which happily subsists between both nations, and that, in faithful observance of existing treaties, both governments should terminate, in a friendly manner, this delicate question, the legitimate rights, and just pretensions of both being mutually conciliated, has thought that the most proper means for gaining this desired end, is to send immediately a Minister Plenipotentiary, to reside near the American Government, who, by his information, prudence, and practical knowledge of the relations between both countries, may be at the same time, the interpreter and the executor of the just intentions of the King. In consequence, His Majesty has been pleased to appoint Don Jose de Heredia, his Envoy Extraordinary and Minister Plenipotentiary in the United States of America. He will set out for his new destination as soon as possible.

I hasten to inform you of this, that you may be pleased to lay it before your Government; and I avail myself of this occasion, to repeat to you the assurances of my most distinguished consideration. God preserve you many years.

Your most obedient servant,

FRANCISCO DE ZEA BERMUDEZ.

San Lorenzo, Nov. 19th, 1824.

Report of the Secretary of the Navy accompanying the President's Message of December 3rd, 1822.

NAVY DEPARTMENT, *November 30th, 1822.*

The PRESIDENT *of the Udited States:*

SIR: In compliance with your request, I have the honour to transmit to you, herewith, sundry papers, numbered one to five, inclusively, which contain the information desired.

No. 1. List of Piratical vessels, &c. captured by vessels of the Navy of the United States.

No. 2. List of vessels of the Navy of the United States, in actual service.

No. 3. List of vessels of the navy of the United States, in ordinary.

No. 4. List of vessels built and building, under the act for the "Gradual increase of the Navy;" and, also, a general view of improvements at the several Building Yards.

No. 5. Copies of Correspondence between the commanders of our cruizing vessels, and the Spanish Authorities.

All of which is respectfully submitted. SMITH THOMPSON.

No. 1.

Statement of captures of Piratical vessels and boats made by vessels of the United States Navy in the West Indies.

Four Piratical schooners, of about forty tons each, and one sloop, of twenty-five tons, in all carrying about one hundred men.

captured by Lieut. Com't L. Kearney, in the United States brig Enterprize, at Cape Antonio, Island of Cuba, Oct. 16th, 1821, in the act of robbing the American ship Lucies, American brig Aristides, and English brig Larch; burnt two of the piratical schooners; the other two, and the sloop, were sent into Charleston, S. C. and condemned.

Schooner Moscow, captured by Capt. Robert Henley, in the sloop of war Hornet, Oct. 29th, 1821, sent into Norfolk.

A boat laden with goods, captured by Lt. Commandant Ramage, off Cape Antonio, Nov. 8th, 1821; took out the goods, and destroyed the boat; crew escaped.

A schooner of about 35 tons, captured by Lieut. Commandant Kearney, 21st Dec. 1821; crew, about 25, escaped.

Six piratical vessels captured by Lieut. Commandant Ramage, January 7th, 1822; burnt five of them, and manned one, took three prisoners, and destroyed their depot, &c. on the coast of Cuba.

A large barge taken by gun vessel Revenge, 7th March, 1822; she was deserted by her crew, and evidently fitted for piratical purposes.

Three piratical launches and four barges, captured by Lieut. Commandant Kearney, in the United States brig Enterprize, at Cape Antonio, on the 8th March, 1822, destroyed.

Two piratical schooners captured by Lieuts Commandants Perry and Gregory, in June 1822, three pirates prisoners.

Spanish privateer Palmira, alias Panchita, captured by Lieut. Commandant Gregory, August 16th, 1822, sent into Charleston S. Carolina.

Five piratical vessels captured by Captain S. Cassin, commanding United States ship Peacock, on the 28th and 30th September, 1822; burnt two; found eighty-nine bags coffee concealed in the woods by the pirates: two of the vessels sent to New Orleans.

A Dutch sloop was re-captured from pirates by Captain John H. Elton, commanding United States brig Spark, January, 1822, and the prize crew, seven men, were sent into Charleston, S. C.

Portuguese ship Mariana Faliero, captured by Lieut. Commandant R. F. Stockton, in the United States schooner Alligator, sent into Boston.

No. 2.

List of vessels of the United States Navy, now in service.

In the Pacific Ocean.

Ship Franklin, - 74 guns. Schooner Dolphin, 12 guns.

In the Mediterranean.

Frigate Constitution, 44 guns. Sloop of war Ontario, 18 guns.
Schooner Nonsuch, 12 "

On the Coast of Africa.

Corvette Cyane, 24 guns.

In the West Indies.

Frigate Congress,	36 guns.	Schooner Grampus,	12	g
Corvette John Adams,	24 "	" Shark,	12	
Sloop of war Peacock,	18 "	" Porpoise,*	12	
Brig Spark,	12 "	Gun Boat No. 158,	1	
Schooner Alligator,	12 "			

*And on survey Coast Florida.

Sloop of War Hornet, 18 guns, preparing for a cruise in West Indies, at Norfolk, Virginia.

Brig Enterprize, repairing at New York, for a cruise in the Indies.

No. 3.

List of vessels of the United States' Navy, in Ordinary, exclusive of sh the list of the Navy Commissioners; exclusive of list numbered 4.

Ship Independence,	74	Guns.	Frigate Constellation,	36	g
Ship Washington,	74	"	" Macedonian,	36	
Frigate United States,	44	"	Steam Frigate Fulton,	30	
" Guerriere,	44	"	Sloop of War Erie,	18	
" Java,	44	"			

No. 4.

Vessels built and building under the law for the gradual increase of the with a general view of improvements completed at the several building ya

Columbus	74	Launched in ordinary at Boston, with a over her to protect her from the rain, &c.
Ohio	74	Launched in ordinary at New-York, w roof over her to protect her from the sun, &c.
North Carolina	74	Launched in ordinary at Norfolk, and nov
Delaware	74	vering with roofs to protect them.
One	74	At Boston, nearly finished; house over and perfectly protected.
One	74	At Boston; frame raised; under a house, fectly protected.
One	74	At Portsmouth, N. H. nearly finished; u a house, perfectly protected.
One	74	At Norfolk, Va. about half finished; h over her; perfectly protected.
One	74	At Philadelphia; keel laid, frame nearly house now building over, and prot raised by this time.
Potomac	44	Launched and hauled up on the inclined p at Washington, where she now lies, u a house, perfectly protected from the rain, &c.
One	44	At Washington, about half finished.

One	44	At Philadelphia, nearly finished, house over her; perfectly protected.
One	44	At New York; frame getting out, and nearly ready to raise.
One	44	At Portsmouth, N. H. in forwardness; house over her; perfectly protected.

The frames of the other frigates authorized to be built, excepting a few pieces yet to be delivered by the contractors, and nearly all the other materials excepting the iron, are procured and placed in situations where they will probably not sustain any immediate material injury.

Two steam battery frames are securely deposited under cover at Washington navy yard.

One steam battery frame is securely deposited under cover at New York.

Two engines are put up, and in a state of preservation at New-York.

The building yards are in as good a state as the means placed at the disposal of the Department would allow; but to erect the necessary ware houses, repair wharves, cover some of the vessels, now building, and to erect suitable sheds over the timber, for its preservation, there will be required for the year 1823, the sum of $150,000.

General View of Improvements completed at the several building yards, in 1821 *and* 1822.

At Norfolk,	Timber dock filled up, and house built over new ship of the line.
At Washington,	Inclined plane, with a house over it; large warehouse; sail loft and rigging loft.
At Philadelphia,	Foundation of a new ship laid; house built over a frigate, and house now raising over a ship of the line.
At New York,	Foundation of a new ship laid; house built over a frigate; low ground filled up to an extent to afford sufficient room to work on.
At Boston,	Foundation of a new ship laid; a house built over a ship of the line; a blacksmith's shop erected; the timber dock piled and improved; cover placed over the frame of a 44, about two acres of ground levelled.
At Portsmouth, N. H.	Foundation of a new frigate laid, and a house erected over it.

No 5.

Copies and Extracts of letters and reports, exhibiting a general view of the correspondence between the Commanders of our cruising vessels in the West Indies, and the Spanish Authorities.

U. S. FRIGATE MACEDONIAN, *Havana, May 6th,* 1822.

SIR: I have the honour to inform you that I arrived here on the

28th ultimo: My passage was somewhat protracted by chasing, out of my course, suspicious looking vessels among the Islands, and by having two days under convoy an American schooner, that requested me to see her safe past Cape Antonio. On my arrival, I saluted the Captain General and the Admiral, receiving from each, in return, gun for gun, agreeably to previous arrangement. On the 29th, I had an interview with the Captain General relative to the business with which I am charged by Mr. Adams, the Secretary of State. On the 30th, I addressed a communication to him upon the subject of landing our boats and men upon the coast of Cuba when in pursuit of Pirates. I enclose a copy of my communication, as also of the Captain General's answer; and you will perceive he declines acceding to the proposition I made to him. I think it preferable to pursue one object at a time with the government here, and I shall therefore drop this subject for the present, renewing it when my correspondence in regard to the Florida Documents is terminated. He certainly ought, and perhaps will consent to our landing upon those parts of the Coast that are uninhabited, and where, though within his jurisdiction, he is utterly incapable of exercising any authority. There are many such places on the coasts of this Island.

The measures adopted by the Captain General, and to which he refers in his letter to me, consist simply of a proclamation, in March last, establishing certain regulations with respect to the clearances of coasting vessels, launches, and other boats. These regulations, I understand, are not strictly enforced, and, even if they were, they are, altogether insufficient for the suppression of piracy along the extensive coast of Cuba. As this proclamation has been published in the American newspapers, I do not think it necessary to send you a copy.

I regret to state that I have not met any of our cruisers either at this port or off Cape Antonio, nor have I been able to gain any information as to where they probably now are. It is some time since any of them were here. The British Frigate Tribune is here, from Porto Bello, and is about to sail for England with specie.

I have the honour to be, &c. JAMES BIDDLE.

Hon. Smith Thompson, *Secretary of the Navy.*

Captain Biddle to Governor Maly.

United States Frigate Macedonian, Havana, April 30th, 1822.

Sir: I have the honour to represent, that the commercial relations between the United States and Cuba are already very considerable, and that they would unquestionably be more considerable, if rendered more secure from unlawful depredations. As these relations, too, are mutually beneficial, it is important to both parties that they should be effectually protected. For this object the government of the United States, on its part, has employed an adequate naval force, which is placed under my direction and control. But as the depredations have been committed chiefly in open boats,

immediately upon the coast, and off the harbours, it is important that we should have your Excellency's co-operation. I have therefore the honour to propose that your Excellency should so far co-operate with me as to sanction the landing, upon the coast of Cuba, of our boats and men, when in pursuit of pirates. This measure would be promotive of our common benefit—is indispensable to the entire suppression of piracy, and is not intended in any manner to infringe upon the territorial rights of your Excellency. It will operate against those only whose atrocious crimes render them obnoxious to every regular government, and should place them without the protection of all law.

I have the honour to be, with great consideration and respect, your Excellency's most obedient and very humble servant,

JAMES BIDDLE.

His Excellency Don Nicholas Mahy, *Captain General and Governor of Cuba, Havana.*

Governor Mahy to Captain Biddle.

[translation.]

I am too sensible of the importance of the commercial relations which exist, and may continue, between the ports of this Island and those of the United States, which I am desirous of cultivating, not to have adopted measures to put a stop to depredations which might obstruct them along the extensive coasts of this Island, under my jurisdiction. I repeat, that such measures have been adopted, and have been made public; and with the zealous co-operation with which you inform me you are charged, we shall doubtless effect shortly a happy extermination of those enemies, who, under all colours, have laid waste and committed robberies, both upon the high seas and every coast, without respecting any flag.

With respect to the permission you solicit, for landing upon this coast with troops and people in boats, for the purpose of pursuing those pirates, I cannot and must not consent to it. I repeat that the necessary measures have been adopted to defend my territorial jurisdiction, and for the apprehension of every description of outlaws.

All which I communicate in answer to your official letter of yesterday. God preserve you many years.

Havana, 2d May, 1822.

NICHOLAS MAHY,
Captain General of the Island of Cuba.

James Biddle, Esq. *Commanding United States ship Macedonian.*

Extract from a report of Lieut. Francis H. Gregory, Commander of U. S. Schooner Grampus, to Captain James Biddle, commanding the U. S. Naval Forces in the West Indies—relating to the capture of the Pancheta, dated

U. S. Schr. Grampus, *St. Thomas, August 24th,* 1822.

"I have the honour to acquaint you, for the information of the

Hon. Secretary of the Navy, that I arrived at St. Bartholomews on the 2d of August; sailed again on the 7th with convoy for St. Thomas. On the morning of the 9th fell in with two Spanish cruizers off Tortola, who demanded permission, and claimed a right to board the Convoy, which being peremptorily refused, they hauled off. The same day I arrived at St. Thomas and received from Captain John Souther, of the schr. Coquette of Georgetown, D. C. the enclosed deposition, having been plundered by those vessels. On the 14th I left St. Thomas, with two valuable vessels, bound to Curracoa, and on the evening of the 15th saw an hermaphrodite brig, hovering upon our weather quarter, apparently a cruiser—continued my course without regarding her; at day light made her ahead and gave chase; at half past nine, having gained considerably upon her, she hoisted English colours; changed them to Spanish at 10, and fired a gun to windward, and at half past 10 hove too, and set a white flag at the fore On nearing her I perceived her to be the Pirate that had fired upon and plundered the Coquette, and therefore considered it my duty to arrest her. At 20 minutes past 11 the Grampus was laid under her lee, within pistol shot, and her surrender demanded as a Pirate, which she affected not to understand, and answered me to that import. While repeating the demand, he poured into us a full volley from his small arms and cannon, which was instantly returned, and continued three minutes and a half, when he struck his colours, a complete wreck, having one man killed and six wounded, and in a sinking condition. The boats were despatched instantly to their relief, and it was only owing to the great exertions of Lieut. Voorhees, that she was prevented from going down, having received three shot between wind and water, one of which injured the pumps. The Grampus received some trifling injury in her sails and rigging, but not a man hurt.

"The captured vessel proved to be the notorious privateer Palmyra, formerly the Pancheta, from Porto Rico; carries one long brass 18, and eight 18lb. carronades, and a crew of 88 men. They acknowledge the robbery of the Coquette, and the only excuse given by the officer is, that they could not prevent those things happening now and then. Several of the plundered articles were found on board."

ST. THOMAS, *August 10th*, 1822.

Personally appeared before us, Capt. John Souther, Commander, and in part owner of the Schooner Coquette, of Georgetown, D. C. Who, being duly sworn upon the Holy Evangelist of Almighty God, deposeth and saith: That he is a native born citizen of the United States of America, and that, while on a voyage in said vessel to the West India Islands, and on his passage from St. Bartholomews to St. Thomas, on the morning of the 9th of August, 1822, at 5 A. M. or thereabouts, he was fired at by a sail in chase, upon which, the deponent sayeth, he immediately hove too. Was boarded by an officer and boat's crew under Venezulian colours; they immedi-

ately demanded his papers; after examining them, they commenced searching the vessel, then went into my cabin and searched the births, chests, &c. They took from the vessel stock, and clothing from the officers and men. The deponent further says, she was an hermaphrodite brig with a red streak, and one long gun midships, and several others, not knowing the exact number.

JOHN SOUTHER.

ATTEST, J. ROHDE, *Captain R. Navy and Harbor Master.*
FRANCIS H. GREGORY, *Lieutenant Com. U. S. Navy.*

The foregoing deposition of Capt. John Souther having been read before John Peabody, jr. mate of the Schr Coquette, John Reynolds, and Henry Sterling, seamen, and they being duly sworn, declare the same to be true.

JOHN PEABODY, JR.
JOHN REYNOLDS,
HENRY STERLING.

ATTEST,
J. ROHDE, *Captain R. Navy and Harbor Master,*
FRANCIS H. GREGORY, *Lieut. Com. U. S. Navy.*

Extract of a letter from Lieutenant Commandant Francis H. Gregory, to the Secretary of the Navy.

"I have the honour to inform you that this vessel, accompanied by the Palmyra, alias Pancheta, was safely anchored in this port on the 12th, after a passage of 15 days from St. Thomas. The Palmyra was captured on the 16th of August to the southward of St. Croix, by the Grampus, after a short action, in which she was principal sufferer, as detailed in my reports to Captain James Biddle, Commander of the United States' Naval Forces cruising in the West Indies. Copies of which have, for your information, already been forwarded to the Department.

"It was my wish and intention, to have entered a more northern port, but light and adverse winds, and the great number of prisoners on board, obliged me to make the nearest port, and that as soon as possible. The prisoners, 76 in number, have been safely lodged in jail, committed for piracy. At least one-third of them are of the Sugar Key gang, who have come to Porto Rico for the purpose of covering their villany with Spanish commissions. All the original documents respecting this vessel have been placed in the hands of the United States District Attorney, and the vessel libelled. Several of her own crew have turned informants, and I expect a great scene of villany will be exposed.

"I frequently saw gentlemen from Porto Rico while at St. Thomas's, and was informed that several small privateers were fitted out there, which, if not looked after in time, will certainly commit some very serious depredations upon our commerce, as they are, in reality, nothing but pirates; most of their crew being from the establishments of Cuba, and to their thirst for plunder add a deadly desire of revenge whenever they fall in with a defenceless American."

Extract of a letter from Lieutenant James Ramage, commander of the United States schooner Porpoise, to the Secretary of the Navy, dated St. Thomas 9th July, 1822.

" Having sailed from St. Bartholomews on the evening of the 6t instant, I fell in, the next morning, with two brigs of war, bearin the Mexican flag. I run down, with our colours flying, betwee them ; and, when opposite to each, received a gun from the one t windward, which was instantly returned from this vessel : shortly after I received a similar salute from that to leeward, which wa promptly replied to—both vessels, on firing, hauled down the Mexican, and hoisted the Spanish national colours. I then range alongside the brig to leeward, observing her crew in a state of ex treme confusion ; they opened an irregular and ill directed fire o grape and musketry, but without any effect. I was in the act o giving orders to return our broadside, when hostilities ceased ; an I directed Lieutenant Curtis to board the brig, and examine her pa pers : they proved to be H. C. Majesty's brigs Palmyra, of 1 guns, 130 men, and G. Boves, of 8 guns and 100 men, both fro Cadiz. The inclosed is a literal copy of a letter addressed me b the senior commanding officer.

" I now hasten to communicate the intelligence received by m at this place, which I believe to be entirely authentic : that severa Spanish privateers, of considerable force, have lately been equip ped from the island of Porto Rico, for the purpose of capturing a vessels sailing to or from the ports on the coast of Spanish Amer ca, in possession of the Patriot forces, under the plea that they ar violating a system of blockade established by the government Spain. These privateers have already made several captures American and other vessels, which have been carried to remot ports in the Island of Porto Rico, and will doubtless be condemned The injury that will result to the commerce of our country, fro this system of pretended blockade, will be very serious, if no timely checked by an adequate force in this quarter : and, as I have no means of communicating from hence with Capt. Biddle, I con sider it my duty to lay the present information before you."

S. N. B. G. Boves, *At sea, July* 8, 1822.

M. Ramage, *U. S. Sc. Porpoise*,

Sir : I am sorry you will be incomoded with me by firiying you this morning, being the case that we thought you were Patriots, and we have commission from our government to blockade all the men ports, and happened that must all the vessels from the men hoisted and fight with the American flag, we took you to be one of them.

I hope therefore you will forgived the uncasionally affair.

I remain your sincear, &c.

PABLO LLUAGER.

To the Captain of the U. S. Sc. Porpoise.

United States' Schooner Porpoise, Curracoa, July 22, 1822.

SIR: I had the honour to address you on the 9th inst. from the Island of St. Thomas, communicating the injuries committed on our commerce by Spanish vessels of war near to Porto Rico, in consequence of their pretended blockade of the Coasts of Spanish America. I have now to inform you that the same causes have produced the same effects in this quarter, and that four American vessels have been condemned at Porto Cabello for a breach of blockade. The naval force of Spain in these seas consists of an old 44 gun frigate (one of the Russian contract,) a brig and schooner. These are employed in furnishing supplies to Porto Cabello from this island, and yet with such a force and so employed, they uphold the monstrous principle of blockading a coast of more than 1200 miles in extent. It does not appear that any injury has been committed on our commerce by the vessels of the Colombian Republic. I have the honour to be, &c. JAMES RAMAGE.

Hon. SMITH THOMPSON, *Sec'y Navy.*

Extract of a letter from Lieutenant James Ramage, commander of the United States' schooner Porpoise, to Captain James Biddle, commanding the naval forces in the West Indies.

"Under the plea of a breach of blockade, the Spanish squadron in this direction, capture all vessels bound to or from ports in possession of the Colombian Republic. The naval force of Spain, now here, consists of an old 44 gun frigate, the Ligera, (one of the Russian contract,) an 18 gun brig, the Hercule, and a schooner; the whole of which are employed supplying Porto Cabello with provisions from Curracoa; yet, with such a force, and so employed, they uphold the monstrous principle of blockading a line of coast of more than 1200 miles in extent."

Copy of a letter to Captain Laborde, Commanding His Catholic Majesty's Frigate Ligera.

UNITED STATES' SCHOONER PORPOISE,
Harbour of St. Ann, Curracoa, 21st July, 1822.

SIR: I have received from the master of the American schooner Antelope a communication, of which a copy is herewith transmitted you. From this statement it appears that a very serious injury has been done by you to the rights and property of citizens of the United States, by the capture and subsequent condemnation of an American vessel and cargo pursuing a lawful commerce; but it is hoped that more just reasons will be exhibited on your part for the course pursued, than those stated in the communication referred to.

I have received information that the American vessels named underneath, have been carried into Porto Cabello, and there condemned under the pretext of a breach of blockade of the coast and harbours of the Spanish Main. In consequence, thereof, it becomes my duty to demand from you the release of all vessels and property so seized, and further to state, that the United States can-

not recognize such a system of blockade to the manifest injur their commerce, where the force of Spain is so evidently inadeq to its fulfilment.

I am, &c. &c. JAMES RAMAG

To Capt. LABORDE, *Commanding H. M. C. M. Frigate Ligera, Curre* American brigs Calypso of New York,
Rising States of New York, schr. Union of Sale

Statement of Arthur Edgarton, mate of the brig General Andrew Jac

Arthur Edgarton, mate of the brig General Andrew Jackson ken by the privateer General Pereira, on the 22nd July, as as he can remember, the log book being taken from him—C Langdon and the cook were sent in the brig to Ponce, and the r and men were taken on board the privateer, having been robbe every article of clothing, except what they had at the time on t backs. The men had recently left the United States, and each a new suit of good clothes, many of which can, at most hour seen at this place, worn by the crew of the privateer in pul Except being robbed of clothing, knives, razors, &c. were well tr ed on board the privateer, where they remained about seven days—were then put into the Puntilla (prison) without food, t the afternoon of the third day. The keeper of the prison obs ing the wants of these men, sent word to the captain of the pr teer, " That he must furnish them daily with food, or he woul punished ; " which was complied with.

Captain Spence to the Secretary of the Navy, transmitting Correspond with the Governor of Porto Rico, marked A. to G. inclusive.

U. S. SHIP CYANE, *St. John's, Porto Rico, Sep.* 3*d*, 18

SIR : After a passage of twenty-five days from the Chesape during which we experienced an alternation of calms and l winds, I anchored in this harbour. I found no small excite existing, produced by the capture of the Pancheta. The pres of a ship of our force was perhaps seasonable ; and possibly have been the means of preventing unpleasant consequences to Americans here. Before I could enter upon the business spec delegated, I was informed of the imprisonment of several citi of the United States, taken from the brig General Jackson, ca red and sent into Ponce. As no American ought to be restra of his liberty, in any quarter of the world, one hour, without cause, I addressed his Excellency Don Francisco Gonzalez de narez, demanding their release. My letter, marked A. is h with transmitted. The men being liberated, I felt myself at li ty to enter upon the execution of my instructions, and im diately addressed him upon the subject of the capture of Amer vessels by privateers out of the island of Porto Rico. A cop my letter, marked B, is herewith enclosed. On the 27th u addressed to his Excellency letter C, annexing memorandum N being a list of vessels sent into the different ports of the Island

adjudication. On the 28th I received from his Excellency a reply to my representations, which is herewith transmitted, with other subsequent communications from him. I then addressed to him letter D, with copies of the accompanying documents, 2, 3, and 4.

Some of the circumstances of the capture of the Pancheta being known, for the purpose of preventing the ill effects of distorted and prejudiced representations, and to allay the sensations of which his Excellency speaks, I addressed to him, on that subject, letter marked E. Receiving several reiterative communications, of which I obtained but very imperfect translations, I replied with letter marked F, and came to the consummation of the duty confided to me in letter G, and I trust, in the declarations there made, I have neither gone beyond the letter or spirit of my instructions; having been influenced throughout the whole correspondence, by a strong desire to discharge a delicate trust with becoming graciousness; and, while making known the sentiments of the American people, and the determination of my government, to conciliate, by a friendly style and manner, the good feelings of those in authority, all of whom are men of high standing, and justly estimable. I hope my remarks on the laws of blockade will be considered by yourself and the President pertinent and proper. I believe I conceived your views on that subject. It cannot, however, be expected that an officer who embarked at the age of eleven on an element where the accomplishments of a scholar are not required, should shine in a correspondence of a diplomatic cast; especially when depending wholly on his own feeble capacity. What I have written on this occasion, has been with a heart glowing with American feelings, with an enthusiastic admiration of our laws, institutions, and great men; if therefore, a little egotism should occasionally appear, I plead this in extenuation.

The hospitality of the port has been freely and fully extended to my ship, and the personal attentions of those in authority have been gratifying to me and my officers. To a system of privateering they are opposed; and the governor will do all in his power to discourage its continuance. Indemnification for the past, I fear, we shall have to look for to the treasury of Spain.

I shall be active in attending to every thing in which the interest of our commerce is concerned; and shall endeavour to sustain the American character by a manner gentle, yet firm—taking on myself no responsibility, keeping constantly in eye the reciprocal rights of nations, and your instructions.

I have the honour to remain, sir, your obedient servant,

ROBERT TRAIL SPENCE.

P. S. I shall leave these seas the last of October for Africa.

The Hon. SMITH THOMPSON, *Secretary of the Navy, Washington.*

A.

UNITED STATES' SHIP CYANE,

St. John's, Porto Rico, August 26th, 1822.

SIR: Instructed to proceed to Porto Rico, to communicate with

your Excellency, in relation to the infringement of American rights by vessels fitted out of different ports of this Island. I had scarcely anchored with this ship, ere I learnt that several citizens of the United States (after experiencing the most brutal treatment from a gang of desperadoes, belonging to an armed schooner, now in, and said to be of this place,) have been imprisoned, and are at present in confinement.

These American citizens I understand were taken from the brig Andrew Jackson, while peaceably pursuing their vocation on the high seas, under the flag of the United States.

So gross a violation of the usages of all civilized nations, is calculated to excite universal abhorrence, and the just indignation I am persuaded your Excellency must feel on being informed of such an atrocious act, renders it only necessary that it should come to the knowledge of your Excellency, to cause the immediate release of said citizens, and the prompt and salutary punishment of these violators of the laws of nations and humanity.

With the most perfect consideration, &c.

ROBERT T. SPENCE.

His Excellency FRANCISCO GONSALES DE LINARES, *Governor of Porto Rico.*

B

UNITED STATES' SHIP CYANE, *Porto Rico, August 27, 1822.*

SIR: I am directed to call the attention of your Excellency to the capture and detention, by privateers fitted out from this Island, of several American merchant vessels, while pursuing a lawful commerce during a time when the United States enjoy profound peace with all nations.

Your excellency will readily perceive, that under such circumstances, the violation of American rights here complained of, calls for a speedy interposition of justice and authority. Justice, that restitution of these captures may be made, and authority to prevent a repetition of similar outrages.

I will, as soon as possible, transmit to your Excellency the names of the vessels to which this complaint refers, with a statement of the circumstances attending their capture; confidently believing that your Excellency will adopt, as early as possible, such measures as shall, in your wisdom, be deemed sufficient to arrest these depredations, which, in some cases, can be viewed in no other light than piratical.

The flag of the United States, floating in every ocean, guaranties protection to all who lawfully sail under it—the invasion of rights identified with this flag, it would neither be honourable, wise, nor expedient to permit, and that trade to which, as a neutral, the United States have claim uninterruptedly to pursue, cannot be molested.

The American commerce, second to none for magnitude, enterprize, and fair dealing, must, to insure a continuance of these constituent features, be preserved inviolate; and the protection ne-

cessary to effect this object, the government of the United States is determined to afford, whether in the seas of the Mediterranean, Pacific, or Caribbean, where outrages, tending to degrade the flag under which they are committed, are daily occurring; these, as far as they shall come under the cognizance of your excellency, I am persuaded will be restrained and prevented.

The amicable and friendly footing, on which Spain and the United States are at this time, convinces me, that nothing more than a proper representation of these facts is required, to call the subject-matter to the *immediate attention* of your Excellency.

Fully believing this, I have the honour to remain, &c.

ROBERT T. SPENCE.

His Excellency Don Francisco Gonzalez de Linarez,
Governor of Porto Rico.

C.

U. States' Ship Cyane, St. John's, Porto Rico, *August* 28, 1822.

Sir: Having informed your Excellency that I have been instructed to proceed to this place, to communicate with your Excellency on the subject of captures, made by privateers fitted out of this Island, of American vessels, while pursuing, in time of peace, a lawful trade, I now have the honour to transmit a memorandum, embracing the names of these vessels, and the circumstances attending their seizure.

It appears that some of these vessels have been sent in, and after a grievous detention, declared to be a "*bad prize;*" subject, however, to pay all the costs of suit, and one-third of the expenses of the privateer.

To one as profound in all matters of law and equity as your Excellency, this must appear a strange proceeding; a proceeding, calling, with much emphasis, for the interposition of your Excellency's authority, to remedy evils bearing a character calculated to diminish the high respect heretofore entertained by the world, for the equitable decisions of Spanish Courts.

A pretended violation of blockade, it appears, is the pretext for sending into the ports of this island, vessels navigating the sea under the American flag. The whole, therefore, may be resolved into two descriptions of cases: The first, comprising vessels seized and again released as "*bad prizes,*" paying the whole of the costs of trial, and a portion of the expenses of the privateer.

The principles of equity applicable to such cases are too simple to require exposition. The innocent are not to pay the penalty of another's guilt or imprudence. If an American is interrupted in her voyage, captured and vexatiously detained, until a judicial investigation determines her to be a "*bad prize,*" it seems to me self-evident, that all costs of the suit should be paid by the captors, in whom the wrong is; add to this, that proper damages should be levied on the aggressor, that the sufferer may be fairly indemnified, and the "*privateersman,*" be restrained in future by a fear of be-

ing, in all similar cases, called upon to make good the injui sulting from his wantonness; without such a check, what is to limit the mischief done by men of this order, who, stealing their dens and lurking places, pollute the ocean with the blo defenceless sailors, and gorge their cupidity with the spoils of der and ravage!

The good of every nation, and the honour of some, requir so foul a system should be made to cease, that every navigabl may be rendered safe to the honest efforts of enterprise.

The second description of cases to which I wish to call th mediate attention of your Excellency, are those vessels sent i der a pretext of attempting to enter a blockaded port. The p policy uniformly pursued by the government of the United S the just and liberal principles by which it has been gov through all its various struggles, to treat all nations as friends especially, to be on the most friendly footing with Spain, entitl citizens of America to the privilege of navigating the seas wi molestation, on pretexts so flimsy as those of violating a "blocl which has never existed *de facto*.

It is well understood, that a blockade to carry with it the alty of forfeiture, must be conformable to the established op of those distinguished civilians, who have fully and ably exp ed this subject.

In the first place it must be practicable; it must be defined in limits commensurate with the ability; a stationary force intervene; the vessel entering must be warned off; these other qualifications are essential to constitute a blockade, a understood by the President of the United States and other statesmen. If, then, such is the form and nature of a blockad the constant presence of a stationary squadron, adequate to th pose of intercepting all vessels, is indispensable; how is it, whole coast, without any definite limit, should be under the l interdiction, without any visible force; consequently, witho first requisite of a blockade?

While such pretexts for spoliation exist, and the commerce United States is thus devastated, the relations of love and fi ship now existing between the two nations must be shaken, state of things produced such as I am persuaded your Excel will feel desirous to avert.

I trust I shall be excused these remarks, made to one by the principles of "blockade" are fully understood, and whos perience is such as to render the application of them in all just and proper.

It will readily occur to the wisdom and justice of your E lency that injuries sustained by American citizens from i seizure and detention, carry with them a fair claim to indem and that where there has been a manifest partiality in the c deciding on some of the cases presented for your consider that the arm of authority should be extended to remedy, and

quire more equitable decisions. In these cases it is *hoped* and *expected* that your Excellency will direct a revisal of the proceedings of subordinate tribunals, that such of the citizens of the United States as have suffered by them may be immediately made whole in their property, *and receive damages* for unjustifiable detention.

Your Excellency, influenced by high and honourable motives, will doubtless see the propriety of ordering all American vessels now detained to be *forthwith released*, and the punishment of marauders who have tarnished the dignity of the Spanish character by acts of inhuman treatment to citizens of the United States ; by the most flagrant outrages ; by a prostration of all the usages of civilized society ; thereby bringing the commercial world into a state truly to be deplored, tending to arm man against his brother man, and to make safety no where but in strength and habitual hostility.

Submitting this application to the early attention of your Excellency, and calling upon your Excellency immediately to interpose your authority to prevent a continuance of these causes of just complaint, and confidently believing that your love of justice, order and humanity, will impel you promptly to meet the wishes of my government on this subject.

I remain, with the most perfect consideration, your Excellency's obedient servant, ROBERT T. SPENCE.

His Excellency Don Francisco Gonzalez de Linarez,
Governor of Porto Rico.

List of American Vessels captured by Spanish Privateers, and sent into the different Ports of Porto Rico.

Barque American, Emery master, of Kennebunk. This vessel was sent into Cape Roxo by the Spanish Felucha la Carmen, tried, and declared a *bad prize*, but sentenced to pay all costs of the trial, and one third of the charges of the privateer for her detention ; and was compelled, in consequence, to sell her cargo at a great sacrifice.

Brig Sam, of Portland, Crowell master. This vessel was sent into Cape Roxo by the same privateer, and it is understood that she is still detained.

Brig Bliss, of Baltimore, Dungan master. This vessel was sent into Cape Roxo by the same privateer, and after a vexatious detention was suffered to proceed, paying all the costs of trial, and one-third of the expenses of the privateer.

Brig Elizabeth, of Georgetown, West master. This vessel was sent into Aguadella by the privateer General Pereira, for trading to a blockaded port.

Brig General Jackson, of New York, Langdon master, captured and sent into Ponce by the schooner General Pereira, at which place she is now detained ; and part of her crew, after very inhuman treatment, imprisoned at this place.

D.

UNITED STATES' SHIP CRANE, *St. John's, Porto Rico, August 29th*, 1822.

SIR: I have the honour to acknowledge the receipt of your Excellency's letter of the 27th instant, (a translation I have but this moment been able to obtain,) in which you refer me to a communication made to Mr. Lord, the commercial agent, in reply to an application made the day previous to my arrival, for the release of the crew of the brig Andrew Jackson. The sentiments and expressions of your excellency in relation to this outrage are duly appreciated. I felt persuaded that the harsh and illegal imprisonment of unoffending American citizens could not have come to the knowledge of your excellency; and there are other outrages of similar character not yet known, I am convinced, to the high authorities of Porto Rico.

I beg leave to enclose you a copy of a letter from the Government Interpreter at Ponce, into which place the brig Andrew Jackson was taken. This is a representation from a Spanish functionary, and your excellency, I doubt not, will agree with me, that if the facts there stated are true, there is no other application by which I could designate the perpetrators of such inhuman severity, save that of "desperadoes;" men restrained by none of the gentle obligations of humanity.

It is a fact, notoriously known, that the crew of the "Andrew Jackson," illegally and harshly confined at the time of my writing to you had been previously robbed of every thing save the clothes they had on at the time of entering the prison; their jack-knives were even cut from their laniards! If to men who can thus act, who can divest a defenceless "American Tar" of every thing, even to his wearing apparel, I could apply any other distinguishing name than that of "robber" I confess to your excellency I should have selected a milder epithet.

A glance at the history of the past, displays, in the Spanish character, the principles and high sentiments, of which you speak; the island before us bears full testimony of their enterprize and greatness. It was to those sentiments and principles I appealed, when I requested your early attention to proceedings calculated to sully that dignity of which every "Spaniard," is justly proud.

The capture of the Pancheta by a vessel of war of the United States was entirely unknown to me on my arrival at St. John's; but, I can confidently assure your Excellency, that you have been misinformed as to some of the circumstances attending it. I have understood that the privateer Pancheta has been of considerable annoyance to our commerce in these seas, and that, falling in with the United States schooner Grampus, fired into her. The consequences that would result from such an act, may be conceived by your Excellency.

The instructions given to officers of the American Navy are such as to render it impossible that they can be the aggressors—and

the feelings that have characterized them, will always ensure, in these unhappy rencontres, humanity and tenderness.

Vessels have formerly been sent into ports of the United States on apparent good grounds, such as attempts on our commerce; but, in all instances in which cause for condemnation did not appear, heavy damages were awarded, and the sufferers made more than whole in their property—retribution is there always at hand.

In the case of the Pancheta, I beg leave to assure your Excellency, there must have been great cause for the course pursued. As to the indignity offered to the flag, your Excellency, I trust, is misinformed; for no officer in the navy dare stand before the tribunal of the American people, justly charged with having violated the best constituents of the American character—magnanimity and knightly generosity.

This unfortunate occurrence has grown out of the necessity of sending an armed force to these seas, for the purpose of convoying our vessels, and of guarding them against the violence that has been committed upon them by privateers infesting the ocean, for the purposes of plunder. If, in the execution of this duty, rendered necessary by the state of things, calamities unavoidably occur, they must, doubtless, be deplored by the lovers of peace and concord, but cannot be chargeable to us, as voluntary acts.

It is an indisputable fact, although not known to your Excellency, that the Captain's and Mate's trunks of the American brig Sam, captured and taken into Cape Roxo, were broken open, while himself and crew were on board the privateer, and four hundred and twenty Spanish dollars taken from them; also, one trunk of Madrass handkerchiefs and other merchandize. These are transactions unknown to your Excellency, having taken place prior to your Excellency's arrival—they are the acts of privateersmen, from which it would be absurd to infer the character of a wise and liberal nation, like that of Spain.

Seeing the evils that result from the course pursued by privateers out of this island, I call upon your Excellency, in the name of humanity, and of that benign policy which has marked the course of our political career, to place such checks and restraints upon their proceedings, as will, in future, secure the American commerce from interruption, and those vexatious seizures, of which the citizens of the United States justly complain.

These complaints resting on the foundation of wrongs of an aggravated nature, which cannot be justified by any previous aggressions of American citizens, convinces me that they will not be sanctioned by one of your Excellency's liberal and comprehensive views.

Confident of this, I feel much satisfaction in complying with that part of my instructions which requires me to learn from your Excellency how far privateers fitted out of this island, are authorized to capture and bring in for adjudication, the vessels of the United States pursuing a lawful commerce. Information on this head will

serve to explain fully the footing on which our maritime relations rest in this quarter.

Be pleased to accept my best wishes for the health and happiness of your Excellency, and believe me, with the most perfect consideration,

Your Excellency's obedient servant,

ROBERT T. SPENCE, *Captain U. S. Navy.*

P .S. I also enclose a copy of a letter, from the master, of the brig General Andrew Jackson, relative to his treatment from the crew of the Spanish privateer General Pereira.

His Excellency Don FRANCISCO GONZALEZ DE LINAREZ,
Governor of Porto Rico, &c. &c. &c.

E.

U. S. SHIP CYANE, *St. John's P. R. August 30th,* 1822.

SIR : Since the receipt of your letter, alluding to the capture of the Pancheta, some of the circumstances attending it have come to my knowledge.

It appears that this privateer has been, for a considerable time, engaged in intercepting our vessels—frequently boarding them, and exercising an intolerable inquisition—vexatious of themselves sufficient to call for a remedy, but would not have occasioned any offensive measures on the part of American cruisers. The instructions given to our commanders, confine their discretionary powers within limits too circumscribed, to admit of their being led to an act of indiscretion. They are imperatively commanded to do nothing that can tend to interrupt the harmony existing between the United States and other powers, whose maritime rights have ever been respected, and never designedly infringed.

The immediate cause of the Pancheta's capture, was, her having been guilty of several recent acts of plunder ; and her having, but a short while previously to her "mishap," taken a number of articles from an American trader, to which the captain and crew made oath. If these facts are as represented, and I am induced to think they will be incontrovertibly established, they certainly must be denominated acts of piracy committed upon the citizens of the United States, who have been made to suffer, in their property and feelings, by these, and similar outrages. Add to these causes, on being hailed, she fired into the U. S. schr. Grampus! What armed vessel could expect to fire at an American Ship of War with impunity?

These circumstances, when the affair shall be judiciously investigated, I am inclined to think, will be found substantially correct ; if otherwise, there is an equity in the government and laws of the United States, that never was appealed to in vain. There is a sentiment of honour and generosity "in the American people, that will sustain the injured, be he friend or foe—that will redress wrongs with "even-handed justice."

I have deemed it proper to make this statement, with a view to

allay the sensations of which your Excellency speaks, as having been excited by this transaction; sensations I have had occasion, myself to experience, with the additional aggravation of knowing that the authors of them, lurking in obscurity, were sheltered from personal amenability, while, in the present case, your Excellency must feel an assurance, that the standing of the active officer in command of the Grampus, as well as the magnitude of the affair, are such, as to pass them in review of the whole American people, a never-erring ordeal; that laws, and not individuals, will decide as to the criminality of the cruise of the Pancheta; and will determine how far that officer was justifiable in arresting her depredatory excursions.

American cruizers have been sent to these seas to protect our trade: there existed a crying cause—the means of mischief were accumulating—impunity had produced audacity, and the ocean washing the shores of these islands, which the interest of the world require should be unprofaned by the path of the plunderer, had become the theatre of outrage and rapine. American citizens had suffered in their property and sacred persons. To remedy these evils, our officers will be active, vigilant, and unweary; producing, by their conduct, a conviction, that, when acts are perpetrated, such as the Pancheta is charged with having committed, there is no escape. There must be safety in peace, or its best objects are defeated—there must be security on the great "thoroughfare" of all nations; otherwise its best purposes are perverted.

Persuaded that your Excellency will not consider this as unreasonable, and, that you will see the consequences I have pointed out, as the inevitable result of causes herein set forth.

I remain, with the most perfect consideration, your Excellency's obedient servant,

ROBERT T. SPENCE,
Captain in the Navy.

His Exc'y Don Francisco Gonzalez de Linarez,
Governor of Porto Rico, &c. &c.

F.

U. S. Ship Cyane, St. John's, Porto Rico, *Sept. 1st*, 1822.

Sir: Your letters of the 28th and 31st ultimo, in answer to several communications from me, have been duly received—translations of which, I have but this moment been able to obtain.

In relation to the capture of the Pancheta, I beg permission to repeat, that it must be considered as a disaster growing out of the unjustifiable conduct of her crew, and as one of the retributive results of an abuse of her cruizing license.

We require, that our lawful commerce shall be unmolested; that our vessels shall not, from frivolous causes, and on pretexts, of which every privateersman constitutes himself a judge, be intercepted, and subjected to inquisitorial scrutiny, and American citizens made to incur intolerable inconvenience and expense. Evils like these, have a remedy, which the most forbearing would not expect should remain dormant.

I am convinced your Excellency has been incorrectly informed, as to the treatment of the crew of the Pancheta, which you represent as cruel, and unnecessarily harsh. The officer commanding the schooner Grampus is well known for his humane feelings, and I am persuaded that all practicable and proper mildness was exercised on the occasion.

It is not to a discussion of the laws and principles of "blockade," that I am desirous of calling your excellency's attention—they are settled and established by the concurrent opinion of the wisest statesmen, and are no longer doubtful. "Blockade" is not a mystical arcanum; it involves certain practical rules, amply explained, and, I am persuaded, well and fully understood by your excellency.

It was to invite a just application to these principles, according to the acknowledged usages of the age, that I was led to present the subject to your Excellency's attention; thereby to prevent the seizure of our vessels, and to do away a pretext, often alleged, for sending them in for adjudication.

It was presumed, that your excellency's powers extended to the correction of evils, existing within the range of your authority; that you had the means of checking the licentiousness of privateering, and that, seeing the pernicious effects of it, would feel every disposition to shield the commerce of the United States, by the interposition of seasonable restraints.

While I feel confident, that your Excellency will adopt, with promptitude, measures calculated to ascertain the extent of the grievances set forth in my communication of the 28th ultimo, I must beg leave, again to repeat the expression of my hope and expectation, that you will cause all American vessels, now illegally detained in the ports of this island, forthwith to be released, and equitable damages awarded such of the citizens of the United States as have suffered, either in property or person.

The well known character of your Excellency, for wisdom and justice, inclines me to believe, that these expectations will appear reasonable and right, and that they will be fully and satisfactorily realized by your Excellency's obedient servant,

ROBERT T. SPENCE, *Captain in the Navy.*

His Excellency Don Francisco Gonzalez de Linarez,
Governor of Porto Rico, &c. &c.

United States' ship Cyane, St. John's, Porto Rico, September 3d, 1822.

Sir: I have had the honour to receive several communications from your Excellency, in reply to letters addressed to you on subjects of very considerable moment.

Your professions of respect for the laws of nations, and your determination of making them, and the laws of the "constitutional monarchy of Spain," your guides; and the intention you express of inquiring into the matters set forth in my official representations, &c. &c. are all properly appreciated, and will, doubtless, prove highly efficacious. The laws of Spain, no doubt, are all which the

accumulated experience of ages, and the united wisdom of sage men, can make them; and, if administered by one of your Excellency's impartiality, would, I am persuaded, afford no good cause of complaint.

I had the honour, a few days since, to present, for the consideration of your Excellency, some of the proceedings and decisions of the constituted tribunals of the Island—whether such are just or legal, your Excellency can decide—to me they seem novel, and extraordinary; and, with a knowledge of some of the minor circumstances attending those vexatious trials, I cannot refrain from saying they appear strange.

I am sure your Excellency will deem it due to the dignity of the "constitutional monarchy" you represent, to cause American citizens to be indemnified for the loss sustained by such adjudications as your Excellency has been invited to investigate. It is but right and just to expect this of the laws of Spain; and while I indulge a belief that such will be the course pursued, I am led to call your attention to the policy of doing away all future occasion of dissatisfaction, by rendering the owners, or captains, of the privateers out of Porto Rico, more accountable.

In my letter of the 29th ultimo, I requested that your Excellency would do me the honour to state how far these privateers are authorized by the authorities of the Island, to capture and bring in for adjudication, vessels of the United States engaged in the pursuit of a lawful commerce. This information your Excellency has not thought proper to afford.

From the facility with which these small privateers are fitted out, and from the description of persons on board some of them, it has occurred to me, that they are not made to enter into penal bond, to restrain, and produce responsibility, for the excesses they may commit, but are left to cruize "*ad libitum.*" Under such circumstances, transgressions are inevitable.

It is against the aggressions of such vessels, I remonstrate—protesting against the improper privilege they have exercised, of intercepting and detaining, on the high seas, vessels of the United States engaged in a lawful trade. And it becomes necessary for me to inform your Excellency, and wish it should be known to all whom it may concern, that, with a view to prevent, as far as practicable, a state of things fraught with mischief and abuse; to guard against a maritime anarchy, to which the commerce of the United States cannot be subjected; to secure to its citizens safety, and to its flag the benefits of peace and neutrality; and to preserve the harmony my Government is desirous should exist between the two nations; I shall, as far as possible, give convoy to American vessels navigating these seas, and shall forbid, and prevent, any interruption or detention by any privateer or armed vessel, and shall feel it incumbent on me to treat as an enemy, and send to the United States, any privateer, or armed vessel, that shall cause hindrance to the

lawful voyage of an American vessel, or shall be found violating the flag of the United States, and the laws of nations.

Satisfied that your Excellency will look upon this course of conduct as moderate, and unavoidable, I remain

Your Excellency's very obedient servant,

ROBERT T. SPENCE, *Captain in the Navy.*

His Excellency DON FRANCISCO GONZALEZ DE LINAREZ.
Governor of Porto Rico.

No. 1.

[TRANSLATION.]

Don Fr. Gonzs. de Linarez to Captain Spence.

SIR: On the receipt of your official letter, informing me, generally, of the depredations and excesses committed by the Spanish privateers of this Island, upon the vessels of the United States, as I was informed, and in particular, upon the brigantine General Andrew Jackson, by the Pereira, I resolved to take the first care with respect to the last, by the information of an individual of that Nation, Mr. Judah Lord.

My answers to this gentlemen shewed him my surprise, and the just indignation which so unlawful a transgression of the law of nations had excited in this government; the precautions which it took to prove its truth; and the justice which animated it to punish the crime with all the rigour of the Spanish laws; laws capable of themselves of what he, on his part, can desire.

The same, therefore, that I said to Mr. Lord I repeat to you animated with the same principles and sentiments which govern the conduct of the supreme government of the Spanish nation, and which form its character, acknowledged by all the nations of the earth.

But I am certain that you have not been well informed regarding the destruction and spoilations generally committed upon all American vessels. I have the most repeated proofs of the regular conduct of the Spanish privateers towards these vessels, which they have examined and respected in very considerable numbers, showing to the world that they are not desperadoes, because they know not what it means, nor thieves because they are Spaniards.

Would to God that some vessels of the military marine of the United States, had observed towards Spanish vessels, and towards the national military flag, a conduct so regular! I am certain that then there would not have been the disagreeable sensations which now exist from it.

When I speak to you, sir, in this manner, I do it with respect to the scandalous attack made by the United States schooner of war the Grampus, upon the Spanish privateer the Palmyra, which she attacked in the midst of peace, killed and wounded several of her crew, treated with indignity the Spanish flag, confined in chains the greater part of her crew, and that at the very moment when an offi-

cer was about going on board of her to present her papers, and to comply with the law of nations.

You will perhaps be informed of this attack, seldom seen in the history of civilized nations; and no doubt if you have been so with truth, as I am, you will have had the same horror and disgust; because it is impossible otherwise to consider the most sacred conventions trampled upon, and the majesty of a nation insulted; of a nation which has always preserved her rights, and which, oftener than once, has given public proofs of her constancy, and of her never having been offended with impunity.

For my part, with respect to this event, I do nothing else but point it out to you as a particular piece of news, because its decision belongs to the supreme government of both nations. As a functionary of mine, I will not depart from the path which it has pointed out to me; justice shall always be my guide. I shall respect the laws of nations; and I shall punish, with the laws in my hand, such Spanish subjects as shall transgress their duties.

God preserve you many years.

Porto Rico, 27th Aug. 1822. FR. GONZ. DE LINAREZ.

No. 2.

[TRANSLATION]

Don Francisco Gonzalez de Linarez to Captain Spence, Porto Rico, 28th August, 1822.

SIR: I have just seen your official letter of yesterday, relative to the depredations which are said to have been committed by Spanish privateers against the vessels of the United States.

As this communication is substantially the same as the former, it appears only necessary to repeat my yesterday's answer; but, wishing to give you new proofs of the justice and good faith of the Spanish government, I will enter into new explanations.

I am persuaded that the armed privateers of this island have not committed, upon the vessels of the United States, the scandalous crimes with which your personal concern has been raised, or a mistake has entered into your mind. They have been examined by many, and have, without the least injury, continued their voyages; and doubtless, in a short time, you will be convinced of a truth so notorious.

I only speak of the privateers armed in this island, and am very far from making an apology for those that have been armed in other provinces, because I am ignorant of their conduct; and although it may have been criminal in this manner, it belongs not to my authority to punish them.

But if it is very strange that, even when there were some trifling excesses, energetical remonstrances were made for them; and the attack of the American schooner Grampus has been passed over in silence, or considered as a circumstance of no moment, in which the particular circumstance occurred of her belonging to the Navy of the United States; what comparison can ever exist between the

Official Communications from the Department to Commodore Porter.

A.

NAVY DEPARTMENT, *February* 1, 1823.

SIR: You have been appointed to the command of a squadron, fitted out under an act of Congress of the 20th of December last, to cruise in the West India Seas and Gulf of Mexico, for the purpose of suppressing piracy, and affording effectual protection to the citizens and commerce of the United States. Your attention will also be extended to the suppression of the slave trade, according to the provisions of the several acts of Congress on that subject; copies of which, and of the instructions heretofore given to our naval commanders thereon, are herewith sent to you. While it is your duty to protect our commerce against all unlawful interruption, and to guard the rights, both of person and property, of the citizens of the United States, wherever it shall become necessary, you will observe the utmost caution not to encroach upon the rights of others; and should you, at any time, be brought into discussion or collision, with any foreign power, in relation to such rights, it will be expedient and proper that the same should be conducted with as much moderation and forbearance as is consistent with the honour of your country and the just claims of its citizens. Should you, in your cruise, fall in with any foreign naval force, engaged in the suppression of piracy, it is desirable that harmony and a good understanding should be cultivated between you; and you will do every thing on your part, that accords with the honour of the American flag, to promote this object. So soon as the vessels at Norfolk shall be ready for sea, you will proceed to the West Indies, by such route as you shall judge best for the purpose of effecting the object of your cruise. You will establish, at Thompson's Island, usually called Key West, a depot, and land the ordnance and marines to protect the stores and provisions; if, however, you shall find any important objection to this place, and a more suitable and convenient one can be found, you are at liberty to select it as a depot.

You will announce your arrival and object to the authorities, civil and military, of the Island of Cuba, and endeavour to obtain, as far as shall be practicable, their co-operation, or at least their favourable and friendly support, giving them the most unequivocal assurance, that your sole object is the destruction of pirates. The system of piracy which has grown up in the West Indies, has obviously arisen from the war between Spain and the New Governments, her late provinces, in this hemisphere, and from the limited force in the Islands, and their sparse population, many portions of each being entirely uninhabited and desolate, to which the active authority of the Government does not extend. It is understood that establishments have been made by parties of those banditti, in

my power, to elicit the truth of what has occurred with respect to the detained vessels, repeating, that you may rest assured, that the laws of the kingdom shall judge and decide upon them, without the possibility of any alteration in their legitimate application. Neither partiality nor personal interest, nor the passions, shall have any voice, or take any part in the decisions: the law shall dictate, and all (I the first) shall submit to it. God preserve you many years,

FRANCIS. GONZALEZ DE LINAREZ.

No. 4.

[TRANSLATION.

Don Francisco Gonzalez de Linares to Captain Spence.

SIR: I have just received the translation of your official note of the 29th ult., and which is an answer to mine of the 27th, containing, also, the former acknowledgment of the letter of the interpreter de Ponce, which was communicated to me by Mr. Lord, a citizen of the United States; and now recently of the declaration of Mr. Arthur Edgarton, mate of the brig Andrew Jackson, in which I have had the pleasure of reading that he and his companions, detained on board the privateer, *had been well treated.*

You will be pleased, sir, to let me know the things which have been plundered from the detained vessel, and claim the damages which have ensued on her detention. I have taken all the measures which were in my power, for eliciting the truth of the facts, in the manner provided by the laws of Spain; and when, according to them, the delinquents are tried and convicted, they shall be punished; then the tribunals established by the constitutional law of the monarchy will take cognizance, to which the power of judging and applying the laws, is exclusively granted—principles from which it is impossible for me to deviate, as it is with respect to those which rule in the United States, for any functionary to deviate from them.

You may rest assured, that, if the authorities appointed there to try crimes of this class, are inexorable in their conduct, admitting nothing but law and justice, those which are in the territory of the constitutional monarchy of Spain, summoned for that purpose, will never yield in their principles of justice, and in the fulfilment of their duties. To them it belongs to try by the laws, and to apply them, and to the political government of the people to enforce the execution of the legal decisions of the judicial power, and to watch over the observance of the laws, by taking care that no one break them.

God preserve you many years.

FRANCISCO GONZALEZ DE LINAREZ.

PORTO RICO, 1*st September*, 1822.

the local authorities refuse to receive and prosecute such persons, so apprehended, on your furnishing them with reasonable evidence of their guilt, you will then keep them, safely and securely, on board some of the vessels under your command, and report, without delay, to this Department, the particular circumstances of such cases. Great complaints are made of the interruption and injury to our commerce, by privateers fitted out from Spanish ports. You will endeavour to obtain, from the Spanish authorities, a list of the vessels so commissioned, and ascertain how far they have been instructed to intercept our trade with Mexico and the Colombian Republic, impressing upon them, that, according to the well-settled rule of the law of nations, the United States will not consider any portion of coast upon the Gulf of Mexico as legally blockaded, except where a naval force is stationed, sufficient to carry into effect the blockading order or decree; and that this Government does not require the right or authority of Spain to interdict, or interrupt our commerce with any portion of the coast included within the Colombian Republic or Mexican Government, not actually blockaded by a competent force.

All the United States' ships and vessels of war in the West Indies, of which a list is herewith enclosed, are placed under your command, and you will distribute them to such stations as shall appear to you best calculated to afford complete protection to our commerce, in which you will embrace the object of protecting the convoy of specie from Vera Cruz, and the Mexican Coast, generally, to the United States. Keep one vessel, at least, upon this service, to be at or near Vera Cruz during the healthy season of the year, and to be relieved as occasion shall require, both for the convoy of trade, and to bring specie to the United States, confining the transportation to the United States only. You will be particularly watchful to preserve the health of the officers and crews under your command, and to guard, in every possible manner, against the unhealthiness of the climate, not permitting any intercourse with the shore where the yellow fever prevails, except in cases of absolute necessity. Wishing you good health, and a successful cruize,

I am, very respectfully, your obedient servant,

SMITH THOMPSON.

Com. DAVID PORTER, *Comm'd'g U. S. Naval Force, West Indies.*

Laws of the United States relative to the Slave Trade.

Resolution adopted by the House of Representatives, February 8th, 1823.

Resolved, That the President of the United States be requested to enter upon, and prosecute, from time to time, such negotiations with the several maritime powers of Europe and America, as he may deem expedient for the effectual abolition of the African Slave-Trade; and its ultimate denunciation, as piracy, under the law of nations, by the consent of the civilized world.

those uninhabited parts, to which they carry their plunder, and retreat in time of danger. It cannot be presumed that the Government of any island will afford any protection or countenance to such robbers. It may, on the contrary, confidently be believed, that all Governments, and particularly those most exposed, will afford all means in their power for their suppression.

Pirates are considered, by the law of nations, the enemies of the human race. It is the duty of all nations to put them down; and none, who respect their own character or interest, will refuse to do it, much less afford them an asylum and protection. The nation that makes the greatest exertions to suppress such banditti, has the greatest merit. In making such exertions, it has a right to the aid of every other power, to the extent of its means, and to the enjoyment, under its sanction, of all its rights in the pursuit of the object.

In the case of belligerents, where the army of one party enters the territory of a neutral power, the army of the other has a right to follow it there. In the case of pirates, the right of the armed force of one power to follow them into the territory of another, is more complete. In regard to pirates, there is no neutral party, they being the enemies of the human race; all nations are parties against them, and may be considered as allies. The object and intention of our Government is, to respect the feelings as well as the rights of others, both in substance and in form, in all the measures which may be adopted to accomplish the end in view. Should, therefore, the crews of any vessels which you have seen engaged in acts of piracy, or which you have just cause to suspect of being of that character, retreat into the ports, harbours, or settled parts of the island, you may enter, in pursuit of them, such ports, harbours, and settled parts of the country, for the purpose of aiding the local authorities, or people, as the case may be, to seize and bring the offenders to justice, previously giving notice that this is your sole object.

Where a Government exists, and is felt, you will, in all instances, respect the local authorities, and only act in aid of, and co-operation with them; it being the exclusive purpose of the United States to suppress piracy, an object in which all nations are equally interested; and, in the accomplishment of which, the Spanish authorities and people will, it is presumed, cordially co-operate, with you. If, in the pursuit of pirates, found at sea, they shall retreat into the unsettled parts of the islands, or foreign territory, you are at liberty to pursue them, so long only as there is reasonable prospect of being able to apprehend them; and in no case are you at liberty to pursue and apprehend any one, after having been forbidden so to do by competent authority of the local government. And, should you, on such pursuit, apprehend any pirates upon land, you will deliver them over to the proper authority, to be dealt with according to law, and you will furnish such evidence as shall be in your power, to prove the offence alleged against them. Should

of the United States proper to try the same; the one moiety thereof to the use of the United States, and the other moiety to the use of such person or persons who shall sue for and prosecute the same. [*Approved, March* 22, 1794.

An ACT in addition to the act, intituled "An Act to prohibit the carrying on the Slave-Trade from the United States to any foreign place or country."—[Laws U. S. vol. 3, p. 382.]

[SECT. 1] *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That it shall be unlawful for any citizen of the United States, or other person residing within the United States, directly or indirectly to hold or have any right or property in any vessel employed or made use of in the transportation or carrying of slaves from one foreign country or place to another, and any right or property, belonging as aforesaid, shall be forfeited, and may be libelled and condemned for the use of the person who shall sue for the same; and such person, transgressing the prohibition aforesaid, shall also forfeit and pay a sum of money equal to double the value of the right or property in such vessel, which he held as aforesaid; and shall also forfeit a sum of money equal to double the value of the interest which he may have had in the slaves, which at any time may have been transported or carried in such vessel, after the passing of this act, and against the form thereof.

SECT. 2. *And be it further enacted*, That it shall be unlawful for any citizen of the United States, or other person residing therein, to serve on board any vessel of the United States employed or made use of in the transportation or carrying of slaves from one foreign country or place to another; and any such citizen or other person, voluntarily serving as aforesaid, shall be liable to be indicted therefor, and on conviction thereof, shall be liable to a fine not exceeding two thousand dollars, and be imprisoned not exceeding two years.

SECT. 3. *And be it further enacted*, That if any citizen of the United States shall voluntarily serve on board of any foreign ship or vessel, which shall hereafter be employed in the slave trade, he shall, on conviction thereof, be liable to, and suffer the like forfeitures, pains, disabilities and penalties as he would have incurred, had such ship or vessel been owned or employed, in whole or in part, by any person or persons residing within the United States.

SECT. 4. *And be it further enacted*, That it shall be lawful for any of the commissioned vessels of the United States, to seize and take any vessel employed in carrying on trade, business, or traffic, contrary to the true intent and meaning of this or the said act to which this is in addition; and such vessel, together with her tackle, apparel and guns, and the goods or effects, other than slaves, which shall be found on board, shall be forfeited, and may be proceeded against in any of the district or circuit courts, and shall be condemned for the use of the officers and crew of the vessel making the seizure,

those uninhabited parts, to which they carry their plunder, and retreat in time of danger. It cannot be presumed that the Government of any island will afford any protection or countenance to such robbers. It may, on the contrary, confidently be believed, that all Governments, and particularly those most exposed, will afford all means in their power for their suppression.

Pirates are considered, by the law of nations, the enemies of the human race. It is the duty of all nations to put them down; and none, who respect their own character or interest, will refuse to do it, much less afford them an asylum and protection The nation that makes the greatest exertions to suppress such banditti, has the greatest merit. In making such exertions, it has a right to the aid of every other power, to the extent of its means, and to the enjoyment, under its sanction, of all its rights in the pursuit of the object.

In the case of belligerents, where the army of one party enters the territory of a neutral power, the army of the other has a right to follow it there. In the case of pirates, the right of the armed force of one power to follow them into the territory of another, is more complete. In regard to pirates, there is no neutral party, they being the enemies of the human race; all nations are parties against them, and may be considered as allies. The object and intention of our Government is, to respect the feelings as well as the rights of others, both in substance and in form, in all the measures which may be adopted to accomplish the end in view. Should, therefore, the crews of any vessels which you have seen engaged in acts of piracy, or which you have just cause to suspect of being of that character, retreat into the ports, harbours, or settled parts of the island, you may enter, in pursuit of them, such ports, harbours, and settled parts of the country, for the purpose of aiding the local authorities, or people, as the case may be, to seize and bring the offenders to justice, previously giving notice that this is your sole object.

Where a Government exists, and is felt, you will, in all instances, respect the local authorities, and only act in aid of, and co-operation with them; it being the exclusive purpose of the United States to suppress piracy, an object in which all nations are equally interested; and, in the accomplishment of which, the Spanish authorities and people will, it is presumed, cordially co-operate, with you. If, in the pursuit of pirates, found at sea, they shall retreat into the unsettled parts of the islands, or foreign territory, you are at liberty to pursue them, so long only as there is reasonable prospect of being able to apprehend them; and in no case are you at liberty to pursue and apprehend any one, after having been forbidden so to do by competent authority of the local government. And, should you, on such pursuit, apprehend any pirates upon land, you will deliver them over to the proper authority, to be dealt with according to law, and you will furnish such evidence as shall be in your power, to prove the offence alleged against them. Should

sons prosecuting for the penalty; and in any action instituted for the recovery of the penalty aforesaid, the person or persons sued may be held to special bail: *Provided always*, That nothing contained in this act shall be construed to prohibit the admission of Indians.

SECT. 2 *And be it further enacted*, That no ship or vessel arriving in any of the said ports or places of the United States, and having on board any negro, mulatto, or other person of colour, not being a native, a citizen, or registered seamen of the United States, or seamen natives of countries beyond the Cape of Good Hope as aforesaid, shall be admitted to an entry. And if any such negro, mulatto, or other person of colour, shall be landed from on board any ship or vessel, in any of the ports or places aforesaid, or on the coast of any state prohibiting the admission or importation, as aforesaid, the said ship or vessel, together with her tackle, apparel, and furniture, shall be forfeited to the United States, and one half of the nett proceeds of the sales on such forfeiture, shall inure and be paid over to such person or persons on whose information the seizure on such forfeiture shall be made.

SECT. 3. *And be it further enacted*, That it shall be the duty of the collectors and other officers of the customs, and all other officers of the revenue of the United States, in the several ports or places situated as aforesaid, to notice and be governed by the provisions of the laws now existing, of the several states prohibiting the admission or importation of any negro, mulatto, or other person of colour, as aforesaid. And they are hereby enjoined vigilantly to carry into effect the said laws of said states, conformably to the provisions of this act; any law of the United States to the contrary notwithstanding. [*Approved, February* 28, 1803.]

An ACT to prohibit the importation of Slaves into any port or place within the jurisdiction of the United States, from and after the first day of January, in the year of our Lord one thousand eight hundred and eight. [Laws U. S. vol. 4, p. 94.]

[SECT. 1.] *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That, from and after the first day of January, one thousand eight hundred and eight, it shall not be lawful to import or bring into the United States, or the territories thereof, from any foreign kingdom, place, or country, any negro, mulatto, or person of colour, with intent to hold, sell, or dispose of such negro mulatto, or person of colour, as a slave, or to be held to service or labour.

SECT. 2. *And be it further enacted*, That no citizen or citizens of the United States, or any other person, shall, from and after the first day of January, in the year of our Lord one thousand eight hundred and eight, for himself or themselves, or any person whatsoever, either as master, factor, or owner, build, fit, equip, load, or otherwise prepare any ship or vessel, in any port or place within the jurisdiction of the United States, nor shall cause any ship or vessel to sail from any port or place within the same, for the pur-

An ACT to prohibit the carrying on the Slave-Trade from the United States to any foreign place or country. [Laws of the U. S. vol. 2, p. 388.]

[SECT. 1.] *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That no citizen or citizens of the United States, or foreigner, or any other person coming into, or residing within the same, shall, for himself or any other person whatsoever, either as master, factor, or owner, build, fit, equip, load, or otherwise to prepare any ship or vessel within any port or place of the said United States, nor shall cause any ship or vessel to sail from any port or place within the same, for the purpose of carrying on any trade or traffic in slaves, to any foreign country; or for the purpose of procuring, from any foreign kingdom, place, or country, the inhabitants of such kingdom, place, or country, to be transported to any foreign country, port, or place, whatever, to be sold or disposed of as slaves: and if any ship or vessel shall be so fitted out, as aforesaid, for the said purposes, or shall be caused to sail, so as aforesaid, every such ship or vessel, her tackle, furniture, apparel, and other appurtenances, shall be forfeited to the United States; and shall be liable to be seized, prosecuted, and condemned, in any of the circuit courts or district court for the district, where the said ship or vessel may be found and seized.

SECT. 2. *And be it further enacted*, That all and every person, so building, fitting out, equipping, loading, or otherwise preparing, or sending away, any ship or vessel, knowing, or intending, that the same shall be employed in such trade or business, contrary to the true intent and meaning of this act, or any ways aiding or abetting therein, shall severally forfeit and pay the sum of two thousand dollars; one moiety thereof to the use of the United States, and the other moiety thereof to the use of him or her who shall sue for and prosecute the same.

SECT. 3. *And be it further enacted*, That the owner, master, or factor, of each and every foreign ship or vessel, clearing out for any of the coasts or kingdoms of Africa, or suspected to be intended for the slave-trade, and the suspicion being declared to the officer of the customs, by any citizen, on oath or affirmation, and such information being to the satisfaction of the said officer, shall first give bond with sufficient sureties, to the Treasurer of the United States, that none of the natives of Africa, or any other foreign country or place, shall be taken on board the said ship or vessel, to be transported or sold as slaves, in any other foreign port or place whatever, within nine months thereafter.

SECT. 4. *And be it further enacted*, That if any citizen or citizens of the United States shall, contrary to the true intent and meaning of this act, take on board, receive or transport any such persons, as above described in this act, for the purpose of selling them as slaves, as aforesaid, he or they shall forfeit and pay, for each and every person so received on board, transported, or sold as aforesaid, the sum of two hundred dollars, to be recovered in any court

jurisdiction of the same, shall, from and after the first day of January, one thousand eight hundred and eight, contrary to the true intent and meaning of this act, take on board any ship or vessel from any of the coasts or kingdoms of Africa, or from any other foreign kingdom, place or country, any negro, mulatto, or person of colour, with intent to sell him, her, or them, for a slave, or slaves, or to be held to service or labour, and shall transport the same to any port or place within the jurisdiction of the United States, and there sell such negro, mulatto, or person of colour, so transported as aforesaid, for a slave, or to be held to service or labour, every such offender shall be deemed guilty of a high misdemeanor, and being thereof convicted before any court having competent jurisdiction, shall suffer imprisonment for not more than ten years, nor less than five years, and be fined not exceeding ten thousand dollars, nor less than one thousand dollars.

SECT. 6. *And be it further enacted*, That if any person or persons whatsoever, shall, from and after the first day of January, one thousand eight hundred and eight, purchase or sell any negro, mulatto, or person of colour, for a slave, or to be held to service or labour, who shall have been imported, or brought from any foreign kingdom, place, or country, or from the dominions of any foreign state, immediately adjoining to the United States, into any port or place within the jurisdiction of the United States, after the last day of December, one thousand eight hundred and seven, knowing at the time of such purchase or sale, such negro, mulatto, or person of colour, was so brought within the jurisdiction of the United States, as aforesaid, such purchaser and seller shall severally forfeit and pay for every negro, mulatto, or person of colour, so purchased or sold as aforesaid, eight hundred dollars; one moiety thereof to the United States, and the other moiety to the use of any person or persons who shall sue for and prosecute the same to effect: *Provided*, That the aforesaid forfeiture shall not extend to the seller, or purchaser of any negro, mulatto, or person of colour, who may be sold or disposed of in virtue of any regulation which may hereafter be made by any of the legislatures of the several states in that respect, in pursuance of this act, and the constitution of the United States.

SECT. 7. *And be it further enacted*, That if any ship or vessel shall be found, from and after the first day of January, one thousand eight hundred and eight, in any river, port, bay or harbour, or on the high seas within the jurisdictional limits of the United States, or hovering on the coast thereof, having on board any negro, mulatto, or person of colour, for the purpose of selling them as slaves, or with intent to land the same, in any port or place within the jurisdiction of the United States, contrary to the prohibition of this act, every such ship or vessel, together with her tackle, apparel, and furniture, and the goods or effects which shall be found on board the same, shall be forfeited to the use of the United States, and may be seized, prosecuted, and condemned, in any court of the United States, having jurisdiction thereof. And it shall be lawful for the President of the United States, and he is hereby authorized,

: of procuring any negro, mulatto, or person of colour, from foreign kingdom, place, or country, to be transported to any port lace whatsoever, within the jurisdiction of the United States, e held, sold, or disposed of as slaves, or to be held to service abour: and if any ship or vessel shall be so fitted out for the pur- aforesaid, or shall be caused to sail so as aforesaid, every such or vessel, her tackle, apparel, and furniture, shall be forfeited ie United States, and shall be liable to be seized, prosecuted, condemned in any of the circuit courts or district courts, for district where the said ship or vessel may be found or seized.

ECT. 3. *And be it further enacted*, That all and every person so ling, fitting out, equipping, loading, or otherwise preparing, or ing away, any ship or vessel, knowing or intending that the shall be employed in such trade or business, from and after first day of January, one thousand eight hundred and eight, rary to the true intent and meaning of this act, or any ways g or abetting therein, shall severally forfeit and pay twenty sand dollars; one moiety thereof to the use of the United States, the other moiety to the use of any person or persons who shall for and prosecute the same to effect.

ECT. 4. *And be it further enacted*, If any citizen or citizens of United States, or any person resident within the jurisdiction of ame, shall, from and after the first day of January, one thou- eight hundred and eight, take on board, receive, or transport any of the coasts or kingdoms of Africa, or from any other gn kingdom, place, or country, any negro, mulatto, or person of ur, in any ship or vessel, for the purpose of selling them in any or place within the jurisdiction of the United States, as slaves, o be held to service or labour, or shall be in any ways aiding betting therein, such citizen or citizens, or person, shall sever- forfeit and pay five thousand dollars; one moiety thereof to use of any person or persons who shall sue for and prosecute ame to effect. And every such ship or vessel in which such o, mulatto, or person of colour, shall have been taken on board, ived, or transported, as aforesaid, her tackle, apparel, and fur- e, and the goods and effects which shall be found on board the , shall be forfeited to the United States, and shall be liable to eized, prosecuted, and condemned, in any of the circuit courts istrict courts in the district where the said ship or vessel may ound or seized. And neither the importer, nor any person or ons claiming from or under him, shall hold any right or title soever to any negro, mulatto, or person of colour, nor to the ice or labour thereof, who may be imported or brought within United States, or territories thereof, in violation of this law, the same shall remain subject to any regulations not contraven- the provisions of this act, which the legislatures of the several s or territories at any time hereafter may make, for disposing ny such negro, mulatto, or person of colour.

ECT. 5. *And be it further enacted*, That if any citizen or citi- of the United States, or any other person resident within the

the United States, and the other moiety to any person, or persons, who shall sue for and prosecute the same to effect: *Provided, however*, That nothing in this section shall extend to prohibit the taking on board or transporting on any river, or inland bay of the sea, within the jurisdiction of the United States, any negro, mulatto, or person of colour, (not imported contrary to the provisions of this act,) in any vessel or species of craft whatever.

Sect. 9. *And be it further enacted*, That the captain, master, or commander of any ship or vessel of the burthen of forty tons or more, from and after the first day of January, one thousand eight hundred and eight, sailing coastwise from any port in the United States, to any port or place within the jurisdiction of the same, having on board any negro, mulatto, or person of colour, for the purpose of transporting them to be sold or disposed of as slaves, or to be held to service or labour, shall, previous to the departure of such ship or vessel, make out and subscribe duplicate manifests of every such negro, mulatto, or person of colour, on board such ship or vessel, therein specifying the name and sex of each person, their age and stature, as near as may be, and the class to which they respectively belong, whether negro, mulatto, or person of colour, with the name and place of residence of every owner, or shipper of the same, and shall deliver such manifests to the collector of the port, if there be one, otherwise to the surveyor, before whom the captain, master, or commander, together with the owner, or shipper, shall severally swear or affirm, to the best of their knowledge and belief, that the persons therein specified were not imported or brought into the United States from and after the first day of January, one thousand eight hundred and eight, and that under the laws of the state, they are held to service or labour; whereupon the said collector, or surveyor, shall certify the same on the said manifests, one of which he shall return to the said captain, master, or commander, with a permit, specifying thereon the number, names, and general description of such persons, and authorizing him to proceed to the port of his destination.—And if any ship or vessel, being laden and destined as aforesaid, shall depart from the port where she may then be, without the captain, master, or commander having first made out and subscribed duplicate manifests, of every negro, mulatto, and person of colour, on board such ship or vessel, as aforesaid, and without having previously delivered the same to the said collector, or surveyor, and obtained a permit, in manner as herein required, or shall, previous to her arrival at the port of destination, take on board any negro, mulatto, or person of colour, other than those specified in the manifests, as aforesaid, every such ship or vessel, together with her tackle, apparel, and furniture, shall be forfeited to the use of the United States, and may be seized, prosecuted, and condemned, in any court of the United States having jurisdiction thereof; and the captain, master, or commander, of every such ship or vessel, shall moreover forfeit, for every such negro, mulatto, or person of colour, so transported, or taken on

pose of procuring any negro, mulatto, or person of colour, from any foreign kingdom, place, or country, to be transported to any port or place whatsoever, within the jurisdiction of the United States, to be held, sold, or disposed of as slaves, or to be held to service or labour: and if any ship or vessel shall be so fitted out for the purpose aforesaid, or shall be caused to sail so as aforesaid, every such ship or vessel, her tackle, apparel, and furniture, shall be forfeited to the United States, and shall be liable to be seized, prosecuted, and condemned in any of the circuit courts or district courts, for the district where the said ship or vessel may be found or seized.

SECT. 3. *And be it further enacted*, That all and every person so building, fitting out, equipping, loading, or otherwise preparing, or sending away, any ship or vessel, knowing or intending that the same shall be employed in such trade or business, from and after the first day of January, one thousand eight hundred and eight, contrary to the true intent and meaning of this act, or any ways aiding or abetting therein, shall severally forfeit and pay twenty thousand dollars; one moiety thereof to the use of the United States, and the other moiety to the use of any person or persons who shall sue for and prosecute the same to effect.

SECT. 4. *And be it further enacted*, If any citizen or citizens of the United States, or any person resident within the jurisdiction of the same, shall, from and after the first day of January, one thousand eight hundred and eight, take on board, receive, or transport from any of the coasts or kingdoms of Africa, or from any other foreign kingdom, place, or country, any negro, mulatto, or person of colour, in any ship or vessel, for the purpose of selling them in any port or place within the jurisdiction of the United States, as slaves, or to be held to service or labour, or shall be in any ways aiding or abetting therein, such citizen or citizens, or person, shall severally forfeit and pay five thousand dollars; one moiety thereof to the use of any person or persons who shall sue for and prosecute the same to effect. And every such ship or vessel in which such negro, mulatto, or person of colour, shall have been taken on board, received, or transported, as aforesaid, her tackle, apparel, and furniture, and the goods and effects which shall be found on board the same, shall be forfeited to the United States, and shall be liable to be seized, prosecuted, and condemned, in any of the circuit courts or district courts in the district where the said ship or vessel may be found or seized. And neither the importer, nor any person or persons claiming from or under him, shall hold any right or title whatsoever to any negro, mulatto, or person of colour, nor to the service or labour thereof, who may be imported or brought within the United States, or territories thereof, in violation of this law, but the same shall remain subject to any regulations not contravening the provisions of this act, which the legislatures of the several states or territories at any time hereafter may make, for disposing of any such negro, mulatto, or person of colour.

SECT. 5. *And be it further enacted*, That if any citizen or citizens of the United States, or any other person resident within the

of the United States, or any other person or persons, shall, i
the passing of this act, as aforesaid, for himself, themselves, o
other person or persons whatsoever, either as master, facto
owner, build, fit, equip, load, or otherwise prepare, any shi
vessel in any port, or place within the jurisdiction of the U
States, nor cause any such ship or vessel to sail from any po
place whatsoever, within the jurisdiction of the same, for the
pose of procuring any negro, mulatto, or person of colour,
any foreign kingdom, place, or country, to be transported to
port or place whatsoever, to be held, sold, or otherwise disp
of as slaves, or to be held to service or labour; and if any shi
vessel shall be so built, fitted out, equipped, laden or othe
prepared for the purpose aforesaid, every such ship or vessel,
tackle, apparel, furniture, and lading, shall be forfeited; one m
ty to the use of the United States, and the other to the use o
person or persons who shall sue for said forfeiture, and prose
the same to effect; and such ship or vessel shall be liable t
seized, prosecuted and condemned, in any court of the U
States, having competent jurisdiction.

SECT. 3. *And be it further enacted*, That every person or pe
so building, fitting out, equipping, loading, or otherwise prepa
or sending away, or causing any of the acts aforesaid to be d
with intent to employ such ship or vessel in such trade or busi
after the passing of this act, contrary to the true intent and m
ing thereof, or who shall, in any wise, be aiding or abetting the
shall, severally, on conviction thereof, by due course of law,
feit and pay a sum not exceeding five thousand dollars, nor
than one thousand dollars; one moiety to the use of the U
States, and the other to the use of the person or persons, who
sue for such forfeiture, and prosecute the same with effect,
shall moreover be imprisoned for a term not exceeding seven y
nor less than three years.

SECT. 4. *And be it further enacted*, That if any citizen or
zens of the United States, or other person or persons res
within the jurisdiction of the same, shall, from and after the pa
of this act, take on board, receive, or transport, from any o
coasts or kingdoms of Africa, or from any other foreign king
place or country, or from sea, any negro, mulatto, or person o
lour, not being an inhabitant, nor held to service by the la
either of the states or territories of the United States, in any
vessel, boat, or other water craft, for the purpose of holding,
ing, or otherwise disposing of, such person as a slave, or to be
to service or labour, or be aiding or abetting therein, every
person or persons, so offending, shall, on conviction, by due co
of law, severally forfeit and pay a sum not exceeding five thou
nor less than one thousand dollars, one moiety to the use o
United States, and the other to the use of the person or pe
who shall sue for such forfeiture and prosecute the same to ef
and, moreover shall suffer imprisonment, for a term not exce
seven years, nor less than three years; and every ship or ve

should he deem it expedient, to cause any of the armed vessels of the U. States to be manned and employed to cruise on any part of the coast of the United States, or territories thereof, where he may judge attempts will be made to violate the provisions of this act, and to instruct and direct the commanders of armed vessels of the United States, to seize, take, and bring into any port of the United States, all such ships or vessels, and moreover to seize, take, and bring into any port of the United States, all ships or vessels of the United States, wheresoever found on the high seas, contravening the provisions of this act, to be proceeded against according to law; and the captain, master, or commander of every such ship or vessel, so found and seized as aforesaid, shall be deemed guilty of a high misdemeanor, and shall be liable to be prosecuted before any court of the United States, having jurisdiction thereof; and being thereof convicted, shall be fined not exceeding ten thousand dollars, and be imprisoned not less than two years, and not exceeding four years. And the proceeds of all ships and vessels, their tackle, apparel, and furniture, and the goods and effects on board of them, which shall be so seized, prosecuted, and condemned, shall be divided equally between the United States and the officers and men who shall make such seizure, take, or bring the same into port for condemnation, whether such seizure be made by an armed vessel of the United States, or revenue cutters thereof, and the same shall be distributed in like manner as is provided by law for the distribution of prizes taken from an enemy: *Provided*, That the officers and men, to be entitled to one half of the proceeds aforesaid, shall safe keep every negro, mulatto, or person of colour, found on board of any ship or vessel so by them seized, taken, or brought into port for condemnation, and shall deliver every such negro, mulatto, or person of colour, to such person or persons as shall be appointed by the respective states to receive the same; and if no such person or persons shall be appointed by the respective states, they shall deliver every such negro, mulatto, or person of colour, to the overseers of the poor of the port or place where such ship or vessel may be brought and found, and shall immediately transmit to the governor, or chief magistrate of the state, an account of their proceedings, together with the number of such negroes, mulattoes, or persons of colour, and a descriptive list of the same, that he may give directions respecting such negroes, mulattoes, or persons of colour.

Sect. 8. *And be it further enacted*, That no captain, master, or commander of any ship or vessel, of less burthen than forty tons, shall, from and after the first day of January, one thousand eight hundred and eight, take on board and transport any negro, mulatto, or person of colour, to any port or place whatsoever, for the purpose of selling or disposing of the same as a slave, or with intent that the same may be sold or disposed of to be held to service or labour, on penalty of forfeiting for every such negro, mulatto, or person of colour, so taken on board and transported as aforesaid, the sum of eight hundred dollars; one moiety thereof to the use of

sons prosecuting for the penalty; and in any action instituted recovery of the penalty aforesaid, the person or persons sue be held to special bail: *Provided always*, That nothing cor in this act shall be construed to prohibit the admission of India

SECT. 2. *And be it further enacted*, That no ship or vessel ing in any of the said ports or places of the United States, ar ing on board any negro, mulatto, or other person of colo being a native, a citizen, or registered seamen of the United or seamen natives of countries beyond the Cape of Good H aforesaid, shall be admitted to an entry. And if any such negr latto, or other person of colour, shall be landed from on boa ship or vessel, in any of the ports or places aforesaid, or coast of any state prohibiting the admission or importation, as said, the said ship or vessel, together with her tackle, appar furniture, shall be forfeited to the United States, and one half nett proceeds of the sales on such forfeiture, shall inure and b over to such person or persons on whose information the seiz such forfeiture shall be made.

SECT. 3. *And be it further enacted*, That it shall be the d the collectors and other officers of the customs, and all oth cers of the revenue of the United States, in the several p places situated as aforesaid, to notice and be governed provisions of the laws now existing, of the several states prol the admission or importation of any negro, mulatto, or other of colour, as aforesaid. And they are hereby enjoined vi to carry into effect the said laws of said states, conformably provisions of this act; any law of the United States to the c notwithstanding. [*Approved, February* 28, 18

AN ACT to prohibit the importation of Slaves into any port or place w jurisdiction of the United States, from and after the first day of Jan the year of our Lord one thousand eight hundred and eight. [Law vol. 4, p. 94.]

[SECT. 1.] *Be it enacted by the S and House of Represe of the United States of Amer assembled*, That and after the first day o eight hundr eight, it shall not be o the United or the territorie dom, place, o try, any with intent to sell, or perso colou slave

T r c pers d af usan person . equip, t or place l cause any the same, for th

should he deem it expedient, to cause any of the armed vessels of the U. States to be manned and employed to cruise on any part of the coast of the United States, or territories thereof, where he may judge attempts will be made to violate the provisions of this act, and to instruct and direct the commanders of armed vessels of the United States, to seize, take, and bring into any port of the United States, all such ships or vessels, and moreover to seize, take, and bring into any port of the United States, all ships or vessels of the United States, wheresoever found on the high seas, contravening the provisions of this act, to be proceeded against according to law; and the captain, master, or commander of every such ship or vessel, so found and seized as aforesaid, shall be deemed guilty of a high misdemeanor, and shall be liable to be prosecuted before any court of the United States, having jurisdiction thereof; and being thereof convicted, shall be fined not exceeding ten thousand dollars, and be imprisoned not less than two years, and not exceeding four years. And the proceeds of all ships and vessels, their tackle, apparel, and furniture, and the goods and effects on board of them, which shall be so seized, prosecuted, and condemned, shall be divided equally between the United States and the officers and men who shall make such seizure, take, or bring the same into port for condemnation, whether such seizure be made by an armed vessel of the United States, or revenue cutters thereof, and the same shall be distributed in like manner as is provided by law for the distribution of prizes taken from an enemy: *Provided*, That the officers and men, to be entitled to one half of the proceeds aforesaid, shall safe keep every negro, mulatto, or person of colour, found on board of any ship or vessel so by them seized, taken, or brought into port for condemnation, and shall deliver every such negro, mulatto, or person of colour, to such person or persons as shall be appointed by the respective states to receive the same; and if no such person or persons shall be appointed by the respective states, they shall deliver every such negro, mulatto, or person of colour, to the overseers of the poor of the port or place where such ship or vessel may be brought and found, and shall immediately transmit to the governor, or chief magistrate of the state, an account of their proceedings, together with the number of such negroes, mulattoes, or persons of colour, and a descriptive list of the same, that he may give directions respecting such negroes, mulattoes, or persons of colour.

Sect. 8. *And be it further enacted*, That no captain, master, or commander of any ship or vessel, of less burthen than forty tons, shall, from and after the first day of January, one thousand eight hundred and eight, take on board and transport any negro, mulatto, or person of colour, to any port or place whatsoever, for the purpose of selling or disposing of the same as a slave, or with intent that the same may be sold or disposed of to be held to service or labour, on penalty of forfeiting for every such negro, mulatto, or person of colour, so taken on board and transported as aforesaid, the sum of eight hundred dollars; one moiety thereof to the use of

jurisdiction of the same, shall, from and after the first day of January, one thousand eight hundred and eight, contrary to the true intent and meaning of this act, take on board any ship or vessel from any of the coasts or kingdoms of Africa, or from any other foreign kingdom, place or country, any negro, mulatto, or person of colour, with intent to sell him, her, or them, for a slave, or slaves, or to be held to service or labour, and shall transport the same to any port or place within the jurisdiction of the United States, and there sell such negro, mulatto, or person of colour, so transported as aforesaid, for a slave, or to be held to service or labour, every such offender shall be deemed guilty of a high misdemeanor, and being thereof convicted before any court having competent jurisdiction, shall suffer imprisonment for not more than ten years, nor less than five years, and be fined not exceeding ten thousand dollars, nor less than one thousand dollars.

SECT. 6. *And be it further enacted*, That if any person or persons whatsoever, shall from and after the first day of January, one thousand eight hundred and eight, purchase or sell any negro, mulatto, or person of colour, for a slave, or to be held to service or labour, who shall have been imported, or brought from any foreign kingdom, place, or country, or from the dominions of any foreign state, immediately adjoining to the United States, into any port or place within the jurisdiction of the United States, after the last day of December, one thousand eight hundred and seven, knowing at the time of such purchase or sale, such negro, mulatto, or person of colour, was so brought within the jurisdiction of the United States, as aforesaid, such purchaser and seller shall severally forfeit and pay for every negro, mulatto, or person of colour, so purchased or sold as aforesaid, eight hundred dollars; one moiety thereof to the United States, and the other moiety to the use of any person or persons who shall sue for and prosecute the same to effect: *Provided*, That the aforesaid forfeiture shall not extend to the seller, or purchaser of any negro, mulatto, or person of colour, who may be sold or disposed of in virtue of any regulation which may hereafter be made by any of the legislatures of the several states in that respect, in pursuance of this act, and the constitution of the United States.

SECT. 7. *And be it further enacted*, That if any ship or vessel shall be found, from and after the first day of January, one thousand eight hundred and eight, in any river, port, bay or harbour, or on the high seas within the jurisdictional limits of the United States, or hovering on the coast thereof, having on board any negro, mulatto, or person of colour, for the purpose of selling them as slaves, or with intent to land the same, in any port or place within the jurisdiction of the United States, contrary to the prohibition of this act, every such ship or vessel, together with her tackle, apparel, and furniture, and the goods or effects which shall be found on board the same, shall be forfeited to the use of the United States, and may be seized, prosecuted, and condemned, in any court of the United States, having jurisdiction thereof. And it shall be lawful for the President of the United States, and he is hereby authorized,

board, contrary to the provisions of this act, the sum of one thousand dollars; one moiety thereof to the United States, and the other moiety to the use of any person or persons who shall sue for and prosecute the same to effect.

SECT. 10. *And be it further enacted*, That the captain, master, or commander, of every ship or vessel, of the burthen of forty tons or more, from and after the first day of January, one thousand eight hundred and eight, sailing coastwise, and having on board any negro, mulatto, or person of colour, to sell or dispose of as slaves, or to be held to service or labour, and arriving in any port within the jurisdiction of the United States, from any other port within the same, shall, previous to the unlading or putting on shore any of the persons aforesaid, or suffering them to go on shore, deliver to the collector, if there be one; or, if not, to the surveyor residing at the port of her arrival, the manifest certified by the collector or surveyor of the port from whence she sailed, as is herein before directed; to the truth of which, before such officer, he shall swear or affirm; and if the collector or surveyor shall be satisfied therewith, he shall thereupon grant a permit for unlading, or suffering such negro, mulatto, or person of colour to be put on shore; and, if the captain, master, or commander, of any such ship or vessel being laden as aforesaid, shall neglect or refuse to deliver the manifest at the time and in the manner herein directed, or shall land or put on shore any negro, mulatto, or person of colour, for the purpose aforesaid, before he shall have delivered his manifest as aforesaid, and obtained a permit for that purpose, every such captain, master, or commander, shall forfeit and pay ten thousand dollars; one moiety thereof to the United States, the other moiety to the use of any person or persons who shall sue for and prosecute the same to effect. [*Approved, March 2*, 1807.]

AN ACT in addition to "An Act to prohibit the Introduction [importation] of slaves into any port or place within the jurisdiction of the United States, from and after the first day of January, in the year of our Lord, one thousand eight hundred and eight," and to repeal certain parts of the same. [Laws U. S. vol. 6, p. 325.]

[SECT. 1.] *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That, from and after the passing of this act, it shall not be lawful to import, or bring, in any manner whatsoever, into the United States, or territories thereof, from any foreign kingdom, place, or country, any negro, mulatto, or person of colour, with intent to hold, sell, or dispose of any such negro, mulatto, or person of colour, as a slave, or to be held to service or labour; and any ship, vessel, or other water craft, employed in any importation as aforesaid, shall be liable to seizure, prosecution, and forfeiture, in any district in which it may be found; one half thereof to the use of the United States, and the other half to the use of him or them who shall prosecute the same to effect.

SECT. 2. *And be it further enacted*, That no citizen or citizens

the United States, and the other moiety to any person, or persons, who shall sue for and prosecute the same to effect: *Provided, however*, That nothing in this section shall extend to prohibit the taking on board or transporting on any river, or inland bay of the sea, within the jurisdiction of the United States, any negro, mulatto, or person of colour, (not imported contrary to the provisions of this act,) in any vessel or species of craft whatever.

Sect. 9. *And be it further enacted*, That the captain, master, or commander of any ship or vessel of the burthen of forty tons or more, from and after the first day of January, one thousand eight hundred and eight, sailing coastwise from any port in the United States, to any port or place within the jurisdiction of the same, having on board any negro, mulatto, or person of colour, for the purpose of transporting them to be sold or disposed of as slaves, or to be held to service or labour, shall, previous to the departure of such ship or vessel, make out and subscribe duplicate manifests of every such negro, mulatto, or person of colour, on board such ship or vessel, therein specifying the name and sex of each person, their age and stature, as near as may be, and the class to which they respectively belong, whether negro, mulatto, or person of colour, with the name and place of residence of every owner, or shipper of the same, and shall deliver such manifests to the collector of the port, if there be one, otherwise to the surveyor, before whom the captain, master, or commander, together with the owner, or shipper, shall severally swear or affirm, to the best of their knowledge and belief, that the persons therein specified were not imported or brought into the United States from and after the first day of January, one thousand eight hundred and eight, and that under the laws of the state, they are held to service or labour; whereupon the said collector, or surveyor, shall certify the same on the said manifests, one of which he shall return to the said captain, master, or commander, with a permit, specifying thereon the number, names, and general description of such persons, and authorizing him to proceed to the port of his destination.—And if any ship or vessel, being laden and destined as aforesaid, shall depart from the port where she may then be, without the captain, master, or commander having first made out and subscribed duplicate manifests, of every negro, mulatto, and person of colour, on board such ship or vessel, as aforesaid, and without having previously delivered the same to the said collector, or surveyor, and obtained a permit, in manner as herein required, or shall, previous to her arrival at the port of destination, take on board any negro, mulatto, or person of colour, other than those specified in the manifests, as aforesaid, every such ship or vessel, together with her tackle, apparel, and furniture, shall be forfeited to the use of the United States, and may be seized, prosecuted, and condemned, in any court of the United States having jurisdiction thereof; and the captain, master, or commander, of every such ship or vessel, shall moreover forfeit, for every such negro, mulatto, or person of colour, so transported, or taken on

boat, or other water craft, on which such negro, mulatto, or person of colour, shall have been taken on board, received or transported, aforesaid, her tackle, apparel, and furniture, and the goods and effects which shall be found on board the same, or shall have been imported therein in the same voyage, shall be forfeited; one moiety to the use of the United States, and the other to the use of the person or persons who shall sue for and prosecute the same to effect; and every such ship or vessel shall be liable to be seized, prosecuted, and condemned, in any court of the United States having competent jurisdiction.

SECT. 5. *And be it further enacted*, That neither the importer or importers, nor any person or persons claiming from or under him or them, shall hold any right, interest, or title whatsoever, in or to any negro, mulatto, or person of colour, nor to the service or labour thereof, who may be imported or brought into the United States or the territories thereof, in violation of the provisions of this act, but the same shall remain subject to any regulations, not contravening said provisions, which the legislatures of the several states or territories, may at any time heretofore have made, or hereafter may make, for disposing of any such negro, mulatto, or person of colour.

SECT. 6. *And be it further enacted*, That if any person or persons whatsoever shall, from and after the passing of this act, bring within the jurisdiction of the United States, in any manner whatsoever, any negro, mulatto, or person of colour, from any foreign kingdom, place, or country, or from sea, or shall hold, sell, or otherwise dispose of, any such negro, mulatto, or person of colour, so brought in, as a slave, or to be held to service or labour, or be in any wise aiding or abetting therein, every person so offending shall, on conviction thereof by due course of law, forfeit and pay, for every such offence, a sum not exceeding ten thousand nor less than one thousand dollars, one moiety to the use of the United States, and the other to the use of the person or persons who shall sue for such forfeiture, and prosecute the same to effect; and, moreover, shall suffer imprisonment, for a term not exceeding seven years, nor less than three years.

SECT. 7. *And be it further enacted*, That if any person or persons whatsoever shall hold, purchase, sell, or otherwise dispose of, any negro, mulatto, or person of colour, for a slave, or to be held to service or labour, who shall have been imported or brought, in any way, from any foreign kingdom, place, or country, or from the dominions of any foreign state immediately adjoining to the United States, into any port or place within the jurisdiction of the United States, from and after the passing of this act, every person so offending, and every person aiding or abetting therein, shall severally forfeit and pay, for every negro, mulatto, or person of colour, so held, purchased, sold, or disposed of, one thousand dollars; one moiety to the use of the United States, and the other to the use of the person or persons who may sue for such forfeiture, and prosecute the

of the United States, or any other person or persons, shall, after the passing of this act, as aforesaid, for himself, themselves, or any other person or persons whatsoever, either as master, factor, or owner, build, fit, equip, load, or otherwise prepare, any ship or vessel in any port, or place within the jurisdiction of the United States, nor cause any such ship or vessel to sail from any port or place whatsoever, within the jurisdiction of the same, for the purpose of procuring any negro, mulatto, or person of colour, from any foreign kingdom, place, or country, to be transported to any port or place whatsoever, to be held, sold, or otherwise disposed of as slaves, or to be held to service or labour; and if any ship or vessel shall be so built, fitted out, equipped, laden or otherwise prepared for the purpose aforesaid, every such ship or vessel, her tackle, apparel, furniture, and lading, shall be forfeited; one moiety to the use of the United States, and the other to the use of the person or persons who shall sue for said forfeiture, and prosecute the same to effect; and such ship or vessel shall be liable to be seized, prosecuted and condemned, in any court of the United States, having competent jurisdiction.

Sect. 3. *And be it further enacted*, That every person or persons so building, fitting out, equipping, loading, or otherwise preparing, or sending away, or causing any of the acts aforesaid to be done, with intent to employ such ship or vessel in such trade or business, after the passing of this act, contrary to the true intent and meaning thereof, or who shall, in any wise, be aiding or abetting therein, shall, severally, on conviction thereof, by due course of law, forfeit and pay a sum not exceeding five thousand dollars, nor less than one thousand dollars; one moiety to the use of the United States, and the other to the use of the person or persons, who shall sue for such forfeiture, and prosecute the same with effect, and shall moreover be imprisoned for a term not exceeding seven years, nor less than three years.

Sect. 4. *And be it further enacted*, That if any citizen or citizens of the United States, or other person or persons resident within the jurisdiction of the same, shall, from and after the passing of this act, take on board, receive, or transport, from any of the coasts or kingdoms of Africa, or from any other foreign kingdom, place or country, or from sea, any negro, mulatto, or person of colour, not being an inhabitant, nor held to service by the laws of either of the states or territories of the United States, in any ship, vessel, boat, or other water craft, for the purpose of holding, selling, or otherwise disposing of, such person as a slave, or to be held to service or labour, or be aiding or abetting therein, every such person or persons, so offending, shall, on conviction, by due course of law, severally forfeit and pay a sum not exceeding five thousand, nor less than one thousand dollars, one moiety to the use of the United States, and the other to the use of the person or persons who shall sue for such forfeiture and prosecute the same to effect; and, moreover shall suffer imprisonment, for a term not exceeding seven years, nor less than three years; and every ship or vessel,

any of the provisions of the act, entitled "An act in addi-
an act to prohibit the importation of slaves into any port or
within the jurisdiction of the United States, from and after
it day of January, in the year of our Lord one thousand eight
d and eight, and to repeal certain parts of the same," or of
ier act or acts prohibiting the traffic in slaves, to be proceed-
nst according to law: and the proceeds of all ships and ves-
ieir tackle, apparel, and furniture, and the goods and effects
ird of them, which shall be so seized, prosecuted, and con-
d, shall be divided equally between the United States and the
i and men who shall seize, take, or bring, the same into
r condemnation, whether such seizure be made by an armed
of the United States or revenue cutter thereof: and the
nall be distributed in like manner as is provided by law for
tribution of prizes taken from an enemy: *Provided*, That
cers and men, to be entitled to one half of the proceeds
id, shall safe keep every negro, mulatto, or person of col-
ound on board of any ship or vessel so seized, taken, or
t into port for condemnation, and shall deliver every such
mulatto, or person of colour, to the marshal of the district into
they are brought, if into a port of the United States, or, if
ere, to such person or persons as shall be lawfully appoint-
he President of the United States, in the manner hereinafter
d, transmitting to the President of the United States, as soon
be after delivery, a descriptive list of such negroes, mulat-
r persons of colour, that he may give directions for the dis-
of them. *And provided further*, That the commanders of
ommissioned vessels, do cause to be apprehended, and taken
stody, every person found on board of such vessel, so seized
ten, being of the officers or crew thereof, and him or them con-
i soon as conveniently may be, to the civil authority of the
States, to be proceeded against, in due course of law, in
f the districts thereof.

. 2. *And be it further enacted*, That the President of the
States be, and he is hereby, authorized, to make such regu-
and arrangements, as he may deem expedient, for the safe
g, support, and removal beyond the limits of the United
of all such negroes, mulattoes, or persons of colour, as may
delivered and brought within their jurisdiction: and to ap-
proper person or persons, residing upon the coast of Afri-
gent or agents for receiving the negroes, mulattoes, or per-
colour, delivered from on board vessels, seized in the pros-
i of the slave trade, by commanders of the United States'
vessels.

. 3. *And be it further enacted*, That a bounty of twenty-five
be paid to the officers and crews of the commissioned ves-
the United States, or revenue cutters, for each and every
mulatto, or person of colour, who shall have been, as
before provided, delivered to the marshal or agent duly ap-
l to receive them: and the Secretary of the Treasury is

same to effect, and to stand committed until the said forf paid: *Provided*, That the aforesaid forfeiture shall not the seller or purchaser of any negro, mulatto, or person who may be sold or disposed of in virtue of any regulati have been heretofore, or shall hereafter be, lawfully ma legislature of any state or territory, in pursuance of thi the constitution of the United States.

SECT. 8. *And be it further enacted*, That in all prosec der this act, the defendant or defendants shall be holder that the negro, mulatto, or person of colour, which he shall be charged with having brought into the United with purchasing, holding, selling, or otherwise disposir which, according to the evidence in such case, the said or defendants shall have brought in aforesaid, or otherwis of, was brought into the United States at least five years to the commencement of such prosecution, or was not br holden, purchased, or otherwise disposed of, contrary to visions of this act; and in failure thereof, the said defend fendants shall be judged guilty of the offence of which h may stand accused.

SECT. 9. *And be it further enacted*, That any prosecuti mation, or action, may be sustained, for any offence under any time within five years after such offence shall have mitted; any law to the contrary notwithstanding.

SECT. 10. *And be it further enacted*, That the first six the act to which this is an addition, shall be and the same by repealed: *Provided*, That all offences committed unde sections of the act aforesaid, before the passing of this ac prosecuted and punished, and any forfeitures which hav curred under the same shall be recovered and distributed act had not been passed.

[*Approved, April 2*(

An ACT in addition to the Acts prohibiting the Slave Trade. [vol. 6, p, 435.]

[SECT. 1.] *Be it enacted by the Senate and House of Repr of the United States of America in Congress assembled*, That ident of the United States be, and he is hereby, authoriz ever he shall deem it expedient, to cause any of the arm of the United States to be employed to cruise on any of of the United States, or territories thereof, or of the Africa, or elsewhere, when he may judge attempts may carry on the slave trade by citizens or residents of the Uni in contravention of the acts of Congress prohibiting the to instruct and direct the commanders of all armed ves United States, to seize, take, and bring into any po United States, all ships or vessels of the United States, w er found, which may have taken on board, or which may ed for the purpose of taking on board, or of transportin have transported, any negro, mulatto, or person of colour

f any of the provisions of the act, entitled "An act in addi- an act to prohibit the importation of slaves into any port or within the jurisdiction of the United States, from and after st day of January, in the year of our Lord one thousand eight ed and eight, and to repeal certain parts of the same," or of ther act or acts prohibiting the traffic in slaves, to be proceed- ainst according to law: and the proceeds of all ships and ves- heir tackle, apparel, and furniture, and the goods and effects ard of them, which shall be so seized, prosecuted, and con- d, shall be divided equally between the United States and the s and men who shall seize, take, or bring, the same into or condemnation, whether such seizure be made by an armed of the United States or revenue cutter thereof: and the shall be distributed in like manner as is provided by law for stribution of prizes taken from an enemy: *Provided*, That fficers and men, to be entitled to one half of the proceeds aid, shall safe keep every negro, mulatto, or person of col- found on board of any ship or vessel so seized, taken, or ht into port for condemnation, and shall deliver every such , mulatto, or person of colour, to the marshal of the district into they are brought, if into a port of the United States, or, if here, to such person or persons as shall be lawfully appoint- the President of the United States, in the manner hereinafter ed, transmitting to the President of the United States, as soon y be after delivery, a descriptive list of such negroes, mulat- or persons of colour, that he may give directions for the dis- of them. *And provided further*, That the commanders of commissioned vessels, do cause to be apprehended, and taken ustody, every person found on board of such vessel, so seized aken, being of the officers or crew thereof, and him or them con- as soon as conveniently may be, to the civil authority of the d States, to be proceeded against, in due course of law, in of the districts thereof.

T. 2. *And be it further enacted*, That the President of the d States be, and he is hereby, authorized, to make such regu- s and arrangements, as he may deem expedient, for the safe g, support, and removal beyond the limits of the United , of all such negroes, mulattoes, or persons of colour, as may delivered and brought within their jurisdiction: and to ap- a proper person or persons, residing upon the coast of Afri- gent or agents for receiving the negroes, mulattoes, or per- colour, delivered from on board vessels, seized in the pros- of the slave trade, by commanders of the United States' vessels.

T. 3. *And be it further enacted*, That a bounty of twenty-five be paid to the officers and crews of the commissioned ves- f the United States, or revenue cutters, for each and every , mulatto, or person of colour, who shall have been, as before provided, delivered to the marshal or agent duly ap- ed to receive them: and the Secretary of the Treasury is

hereby authorized and required to pay, or cause to be paid, to such officers and crews, or their agent, the aforesaid bounty, for each person delivered as aforesaid.

SECT 4. *And be it further enacted*, That when any citizen, or other person, shall lodge information, with the attorney for the district of any state or territory, as the case may be, that any negro, mulatto, or person of colour, has been imported therein, contrary to the provisions of the acts in such case made and provided, it shall be the duty of the said attorney forthwith to commence a prosecution by information; and process shall issue against the person charged with holding such negro, negroes, mulatto, mulattoes, person or persons of colour, so alleged to be imported contrary to the provisions of the acts aforesaid: And if, upon the return of the process executed, it shall be ascertained, by the verdict of a jury, that such negro, negroes, mulatto, mulattoes, person or persons of colour, have been brought in, contrary to the true intent and meaning of the acts in such cases made and provided, then the court shall direct the marshal of the said district to take the said negroes, mulattoes, or persons of colour, into his custody, for safe keeping, subject to the orders of the President of the United States; and the informer or informers, who shall have lodged the information, shall be entitled to receive, over and above the portion of the penalties accruing to him or them by the provisions of the acts in such case made and provided, a bounty of fifty dollars, for each and every negro, mulatto, or person of colour, who shall have been delivered into the custody of the marshal; and the Secretary of the Treasury is hereby authorized and required to pay, or cause to be paid, the aforesaid bounty, upon the certificate of the clerk of the court for the district where the prosecution may have been had, with the seal of office thereto annexed, stating the number of negroes, mulattoes, or persons of colour, so delivered.

SECT. 5. *And be it further enacted*, That it shall be the duty of the commander of any armed vessel of the United States, whenever he shall make any capture under the provisions of this act, to bring the vessel and her cargo, for adjudication, into some of the ports of the state or territory to which such vessel, so captured, shall belong, if he can ascertain the same; if not, then to be sent into any convenient port of the United States.

SECT. 6. *And be it further enacted*, That all such acts, or parts of acts, as may be repugnant to the provisions of this act, shall be, and the same are hereby repealed.

SECT. 7. *And be it further enacted*, That a sum not exceeding one hundred thousand dollars be, and the same is hereby, appropriated to carry this law into effect. [*Approved, March* 3, 1819.

An ACT to continue in force "An act to protect the Commerce of the United States and punish the crime of Piracy," and also to make further Provision for punishing the crime of Piracy. [Laws U. S. vol. 6, p. 529.]

[SECT. ..] *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That

the first, second, third, and fourth, sections of an act, entitled "An act to protect the commerce of the United States and punish the crime of piracy," passed on the third day of March, one thousand eight hundred and nineteen, be, and the same are hereby, continued in force, from the passing of this act for the term of two years, and from thence to the end of the next session of Congress, and no longer.

SECT 2. *And be it further enacted*, That the fifth section of the said act be, and the same is hereby, continued in force, as to all crimes made punishable by the same, and heretofore committed, in all respects, as fully as if the duration of the said section had been without limitation.

SECT. 3. *And be it further enacted*, That if any person shall, upon the high seas, or in any open roadstead, or in any haven, basin, or bay, or in any river where the sea ebbs and flows, commit the crime of robbery, in or upon any ship or vessel, or upon any of the ship's company, of any ship or vessel, or the lading thereof, such person shall be adjudged to be a pirate; and, being thereof convicted, before the Circuit Court of the United States for the district into which he shall be brought, or in which he shall be found, shall suffer death. And if any person engaged in any piratical cruise or enterprise, or being of the crew or ship's company of any piratical ship or vessel, shall land from such ship or vessel, and, on shore, shall commit robbery, such person shall be adjudged a pirate; and, on conviction thereof, before the Circuit Court of the United States for the district into which he shall be brought, or in which he shall be found, shall suffer death: *Provided*, That nothing in this section contained shall be construed to deprive any particular State of its jurisdiction over such offences, when committed within the body of a county, or authorize the Courts of the United States to try any such offenders, after conviction or acquittance, for the same offence, in a state court.

SECT. 4. *And be it further enacted*, That if any citizen of the United States, being of the crew or ship's company of any foreign ship or vessel engaged in the slave trade, or any person whatever, being of the crew or ship's company of any ship or vessel, owned in the whole or part, or navigated for, or in behalf of, any citizen or citizens of the United States, shall land, from any such ship or vessel, and, on any foreign shore, seize any negro or mulatto, not held to service or labour by the laws of either of the states or territories of the United States, with intent to make such negro or mulatto, a slave, or shall decoy, or forcibly bring or carry, or shall receive, such negro or mulatto on board any such ship or vessel, with intent as aforesaid, such citizen or person shall be adjudged a pirate; and, on conviction thereof, before the Circuit Court of the United States for the district wherein he may be brought or found, shall suffer death.

SECT. 5. *And be it further enacted*, That if any citizen of the United States, being of the crew or ship's company of any foreign

ship or vessel engaged in the slave trade, or any person whatever, being of the crew or ship's company of any ship or vessel, owned wholly or in part, or navigated for, or in behalf of, any citizen or citizens of the United States, shall forcibly confine or detain, or aid and abet in forcibly confining or detaining, on board such ship or vessel, any negro or mulatto not held to service by the laws of either of the states or territories of the United States, with intent to make such negro or mulatto a slave, or shall, on board any such ship or vessel, offer or attempt to sell, as a slave, any negro or mulatto not held to service as aforesaid, or shall, on the high seas, or any where on tide water, transfer or deliver over, to any other ship or vessel, any negro or mulatto, not held to service as aforesaid with intent to make such negro or mulatto a slave, or shall land, or deliver on shore, from on board any such ship or vessel, any such negro or mulatto, with intent to make sale of, or having previously sold, such negro or mulatto, as a slave, such citizen or person shall be adjudged a pirate; and, on conviction thereof, before the Circuit Court of the United States for the district wherein he shall be brought or found, shall suffer death.

[*Approved, May* 15, 1820.]

Copy of General instructions, for officers commanding cruizing vessels.

NAVY DEPARTMENT,

SIR: enclosed you have a copy of an Act of Congress, by which you will perceive that a high and delicate power is vested in the President, in authorizing him to employ our public armed ships in protecting the merchant vessels of the United States and their crews, from piratical aggressions and depredations. It will readily occur to you, that, considering the situation in which we stand in relation to Spain and the South American Colonies, the authority given under this Act, must be exercised with the utmost caution and prudence by our public vessels. You have the whole Act laid before you, that you may see its general scope and object; but you will observe that the execution of the law is under the direction of the President, so far as respects the employment of our public vessels. Your conduct will therefore be regulated by your instructions, although they may not go to the full length the law might possibly warrant.

Under the second section of the Act, authority is given to subdue seize, take, and send into any port of the United States, any armed vessel or boat, or any vessel or boat, the crew whereof shall be armed, and which shall have *attempted or committed* any piratical aggression, search, restraint, depredation, or seizure, upon any vessel of the United States, or of the citizens thereof, *or upon any other vessels.*

From the generality of this latter description of vessels, it would seem to embrace those of every nation or country upon which piratical aggressions may have been committed. Admitting the might be extended thus far, it does not appear to have been

al object of the law; and it is thought by the President most ble, at present, not to give it a like indiscriminate practical uction as to all vessels. The great object, as pointed out in st section of the Act, was to protect the merchant vessels of nited States and their crews, from piratical aggressions. This therefore, be considered your particular and special duty. If, ver, you shall discover depredations upon other vessels, com- d under such gross and aggravated circumstances, as to leave doubt of their piratical character, it will be your duty to ire and bring in the aggressors. It is thought most advisable to distinguish in your instructions, because, among other con- ations, it will be seen, that, under the second section of the you are only authorized to *retake vessels of the United States or tizens*, which may have been unlawfully captured upon the seas. No authority is given to *retake* the vessels of any for- nation or country.

u will also perceive, under this second section of the Act, au- :y is only given to subdue, seize, and take, such vessels or boats, s shall have *attempted* or *committed*, some piratical aggression. ever well grounded suspicions you may entertain. that a ves- ay have been fitted out, and is intended to be employed in such edations, you will not molest her, unless you have satisfactory nce that she has either *attempted*, or *actually committed*, some cal aggression on some merchant vessel of the United States, r crew, or upon some other vessel, under the special circum- es above mentioned. This is to be considered an important eading regulation in your conduct, as it will be a strong and st controlling circumstance, (considering we are at peace with he world,) in making up your judgment, whether you are safe justifiable in treating them as pirates. Whenever, therefore, shall find any boats or vessels, the crews whereof have commit- ny actual violence, outrage, or depredation, upon any vessels e United States, or the citizens thereof, or any other vessels, as e mentioned, you will consider yourself authorized to subdue, . and take them; and, unless on such capture, you shall be sat- that they were acting under some lawful authority, and not pi- lly, to send them in for adjudication.

ie range of your cruise will be along the coast of the United s and the Floridas, in the Gulf of Mexico, and among the West- Islands; changing your position in such manner as shall best er the object of your cruise, touching at such ports and places ty be necessary and proper to procure supplies, and to obtain mation, the better to enable you to carry into effect the objects mplated in the Act of Congress. Great reliance is placed on prudence and sound discretion, that you will so execute the r entrusted to you, as to protect the commerce of the United s, without infringing the lawful rights of any other nation or try, their citizens or subjects. All captures made by you, will nt into one of the following ports: Boston, New-York, Norfolk, leston, Savannah, or New-Orleans.

You have, also, enclosed, such parts of several Acts of Congress prohibiting the importation of slaves into any ports or places within the jurisdiction of the United States, as are necessary to point out to you your duty and authority under these laws; and it is expected and required of you, by the President, that a strict and vigilant attention be paid to the direction therein contained; that, if possible, this inhuman and disgraceful traffic may be suppressed.

By the Act of the 20th April, 1818, you will perceive that it is made unlawful to import or bring, in any manner whatsoever, into the United States or Territories thereof, from any foreign kingdom, place or country, any negro, mulatto, or person of colour, with intent to hold, sell or dispose of such person as a slave, or to be held to service. By this Act it is also made unlawful for any citizen of the United States, or other person, to build, equip, load, fit, or otherwise prepare, any ship or vessel in any port or place within the jurisdiction of the United States, or to cause any such ship or vessel to sail from any port or place whatsoever, within the jurisdiction of the United States, for the purpose of procuring and transporting any such slaves to any port or place whatever. And any ship or vessel employed in such importation of slaves, or so built, fitted out, or prepared, is liable to be seized and forfeited.

And by the Act of the 3d March, 1819, the President is authorized to employ any of the armed vessels of the United States to cruise in such places as he may think proper, where he may judge attempts may be made to carry on the slave trade, by citizens of the United States, or residents thereof, in contravention of the Acts of Congress prohibiting the same; and to instruct such armed vessels to seize, take, and bring into any port of the United States, to be proceeded against according to law, all ships or vessels of the United States, wheresoever found, which may have taken on board, or which may be intended for the purpose of taking on board, or of transporting, or may have transported, any negro, mulatto, or person of colour, in violation of any of the provisions of the Act of the 20th April, 1818, above referred to, or in violation of any other Act or Acts, prohibiting the traffic in slaves.

You will perceive from the generality of the provisions in these laws, you are authorized to take and bring in all ships or vessels of the United States, which may have been in any manner employed, or intended to be employed in the slave trade; or any other vessel offending against the provisions of any of the laws you have enclosed. You will particularly notice, the two provisos to the first section of the act of 1819, the first of which directs in what manner you are to keep and dispose of the slaves which may be found on board of any ship or vessel seized by you. If brought within the United States, they are to be delivered to the Marshal of the District where brought in; and transmit the evidence of such delivery to this Department. It is the wish of the President, however, that none should be brought into the United States. Upon the capture, therefore, of any vessel having slaves on board, you will immediately proceed to the Island of Sherbro.

on the coast of Africa, and deliver such slaves to the Agent appointed by the President to receive them, pursuant to the provisions of the Act, or to any other Agent. so appointed, at any other place on the coast of Africa. The second proviso relates to the disposition of the officers and crews of such vessels so captured by you. Great vigilance will be expected from you in the safe keeping of all such officers and crews, until they shall be handed over to the civil authority to be proceeded against according to law.

You will also observe, that by the fifth section of this Act, it is made your duty to bring any vessel and her cargo, you may capture, into some of the ports of the State or Territory to which the captured vessel shall belong, if you can ascertain the same; if not, then *into* any convenient port of the United States.

The range of your cruising for this purpose, will be the same as that pointed out in the former part of your instructions, in relation to pirates.

I am, very respectfully, your most obedient Servant,

NAVY DEPARTMENT, *February 4th*, 1823.

SIR: Since you left here, it has been strongly urged to keep part of our naval force to windward, to watch the Spanish privateers, and particularly about Porto Rico, and thence to Laguira and Porto Cabello. I wish you to distribute a part of your force in that quarter.

I am, respectfully, &c.

(Signed) SMITH THOMPSON.

Com. DAVID PORTER, *Commanding U. S. Squadron, Norfolk, Va.*

I certify that the above is a true copy from the original.

CHAS. HAY, *Chief Clerk.*

NAVY DEPARTMENT, 11*th May*, 1825.

NAVY DEPARTMENT, *April 5th*, 1823.

SIR: I enclose, for your information, two copies of a printed statement, in relation to a piracy, committed in December last, on the Brig Two Brothers, of Newburyport, Anthony Knapp jr. master.

I am, respectfully, &c.

(Signed) SMITH THOMPSON.

Com. DAVID PORTER, *Commanding U. S. Naval force, West Indies.*

I certify that the above is a true copy from the original.

CHAS. HAY, *Chief Clerk.*

NAVY DEPARTMENT, 11*th May*, 1825.

NAVY DEPARTMENT, 23*rd May*, 1823.

SIR: I have the honour to acknowledge the receipt of your letter, bearing date Matanzas, 16th April last; communicating the partial accomplishment of your arrangements for accommodation at Thompson's Island—the distribution of the force under your com

mand—the gallant conduct of Lieutenant Stribling, in the capture of the pirate "Pilot," with a detachment from your squadron without loss on his side, and your regret at the necessity which has compelled you, from the insufficiency of your number of men, to lay up the Peacock; thereby preventing you from giving to your plan of operations, the extension and activity at first contemplated. Great satisfaction is felt, at the prevalence of such general health in your squadron; and hopes are entertained that, by its continuance, the important object you have in view will be more speedily and effectually obtained, and unattended, likewise, by any of those unfortunate concomitants incident to a climate, peculiarly obnoxious, and a service somewhat oppressive.

Some relief, however, will be afforded you, when the performance of the particular duties, assigned to the commander of the John Adams and Enterprize, shall enable them to form a junction with your force, and place themselves, (as expressly instructed,) under your command. Instructions have been given to the commanders of those vessels to use all possible despatch in the execution of their previous orders, and report themselves to you for such service as may be assigned them, in aid of your general operations. By reference to their sailing orders, and general instructions, which they will present to you for examination, you will be more particularly informed of the extent of your authority over them, and can consequently assign to them that sphere of operation, which you may think best adapted to the promotion of the objects you have in view. The Spark is rapidly refitting, to be despatched, when ready, to reinforce your squadron, and act under your command.

Whenever it is practicable to procure supplies for the squadron from this country—you will do so; as they can be furnished upon terms more economical, and of a quality very superior. I enclose copy of a letter, addressed to Captain Patterson, in relation to his detention and employment of the schooner Grampus, which will give you my views upon the subject.

With great respect, &c.

(Signed) SMITH THOMPSON.

Capt. DAVID PORTER,
Commanding U. S. Naval force, W. I. station, Thompson's Island.

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certify that the above is a true copy from the original.

CHAS. HAY.

NAVY DEPARTMENT, *11th May*, 1825.

NAVY DEPARTMENT, *7th June*, 1822.

SIR: I have the honour to acknowledge the receipt of your letter of the 10th ult., in which you complain of the absence of those vessels of war of the United States, which you had supposed were to form a part of your squadron, and afford you assistance in the duties assigned you.

The supposition was correct; but it is scarcely possible to assign causes which will afford you any light upon this subject, except as they may relate to those vessels which have returned to the United States, and are now rapidly refitting to be sent out to your command.

The orders under which some of the commanders acted, being anterior in date to your appointment to the entire command, allowed a greater latitude of discretion, than will be observed when they shall have united their respective commands with yours; and in the exercise of this power, may probably be found the reasons of their absence. Your own examination of their orders, when you meet, will confirm or reject the above suggestion.

The vessels intended to be placed immediately and ultimately under your command, are comprised in the annexed list marked A, in which those designated by the letter B, in red, are the vessels, now and lately in the United States, refitting for the West India service, where they will proceed, as soon as they shall have performed some indispensable, but temporary duties, which have been assigned them.

I also annex a list marked C, which gives the names of those Lieutenants and Midshipmen who have been ordered to report to you for duty, and to whom you will assign such parts thereof as, in your judgment, will best promote the interests of the service, and the object to be attained.

Your force, when once united, will be amply sufficient for the accomplishment of your views, as well as the better accommodation of yourself and those under your command; and you will, no doubt, give it such distribution and arrangement, as will unite these objects.

The vessels ordered to join you, (which are enumerated in the paper A,) will enable you, in pursuing your first plan, to afford more adequate convoy to merchantmen, while the ability for examining and searching the coasts and inlets, for the lurking places of pirates, by means of the schooners and barges, will be greatly increased.

Every assistance which the Department can afford, consistently with its other relations, shall be cheerfully and promptly extended; and while a just expectation is indulged that, from the extent and character of the means afforded, the object contemplated will be speedily and satisfactorily realized; no doubt is entertained of the zeal and ability that will be exerted on the part of those entrusted with the performance.

Too much attention cannot be placed upon the cleanliness of the men, and the good condition of the vessels; for, to causes incident to every naval service in the generation of disease and mortality, are superadded, the baneful influence of a tropical climate upon constitutions unaccustomed to its operations, and unprepared for its effects.

I refer you particularly to my letter of the 23d ult. for instructions in relation to the purchase of supplies, and the negotiation of drafts upon the Department; and am, with great respect, sir, your obedient servant,

SMITH THOMPSON.

Capt. DAVID PORTER, *Commanding U. S. West India Squadron, Thompson's Island.*

NAVY DEPARTMENT, *12th May*, 1825.

I certify the foregoing to be a true copy from the records of the Department. CHA'S HAY, *Chief Clerk.*

NAVY DEPARTMENT, *August* 19, 1823.

SIR: In the last paragraph of your letter, dated the 1st instant, transmitted by the U. S. schooner Ferret, you mention that circumstances will, towards the fall, render your return to the United States, for a short period, necessary; you will please to avail yourself of the time most suited for this purpose, and return to the United States in the manner most convenient to yourself, and least prejudicial to the interests of the service.

I am, very respectfully, Sir, your most obedient servant,

(Signed) SMITH THOMPSON.

Comm'e DAVID PORTER, *Comm'g U. S. Naval Forces, West Indies, &c.*

I certify that the above is a true copy from the original on record in the Navy Department.

11*th May*, 1825. CHAS. HAY, *Chief Clerk.*

NAVY DEPARTMENT, 19*th August*, 1823.

SIR: Your letter of the 1st inst. relative to the transportation of specie, from Vera Cruz to Cadiz, has been submitted to the President; and it would afford both him and myself great pleasure to comply with your request, could it be done consistently with the honour of the American flag, and the relation in which we stand to the belligerents.

Your letter is not explicit, as to whom the money belongs. I take it for granted, however, it is Spanish property, and from the amount, most likely belonging to the Spanish government. In either case, it is deemed inadmissible to employ our public armed vessels for its transportation; under no circumstances could it be permitted to send a vessel direct from Vera Cruz to Cadiz. Should I be under a misapprehension as to the ownership of the property, and, upon further explanation, your request can with propriety be complied with, I can assure you it will give me great satisfaction to promote your interest in this respect.

I am, very respectfully, &c.

(Signed) SMITH THOMPSON.

Comm'e DAVID PORTER, *Com'g U. S. Naval Forces, West Indies, &c.*

NAVY DEPARTMENT, 10th May, 1825.

I certify that the above is a correct copy from the records of this Department. CHAS. HAY, *Chief Clerk.*

NAVY DEPARTMENT, *27th September*, 1823.

SIR: The U. S. schooner Weazel, under the command of Lieut. John P. Zantzinger, will sail this day for Thompson's Island, and take the route pointed out in your orders to Lieut. Kennon of the 14th August last. It was not possible to prepare her to sail at an earlier day. The Beagle will be ready in three or four days.

The schooner Shark, having on board Commodore Rodgers, and several Surgeons, will leave New-York about the 1st October, and reach Thompson's Island as soon as practicable. The uncertainty and anxiety which prevail as to your own health, and the health of the squadron, and a desire to furnish the best assistance and procure information which may be a safe guide on all future occasions, are the inducements to this measure. The orders of Commodore Rodgers will be communicated to you on his arrival, and you will render all the aid, which your health will permit, in accomplishing the object of his visit. It is intended that you shall remain in command of the station, or return home, as your health may require, and inclination prompt. Commodore Rodgers will return immediately after he shall have accomplished the object of his visit.

It is wished that Midshipman Hoban should return in the first vessel from Thompson's Island to this place, some of his family being at this time very sick. I am, very respectfully, &c.

(Signed) SAM'L L. SOUTHARD.

I certify that the above is a true copy of the original on file in the Navy Department. CHAS. HAY, *Chief Clerk.*

11th May, 1825.

The Secretary of the Navy to Commodore Porter.

NAVY DEPARTMENT, *Sept.* 29, 1823.

MY DEAR SIR: This letter will be handed to you by Commodore Rodgers. The object of his visit to Thompson's Island will be fully communicated to you by him. The various, and in many points contradictory, reports, respecting the condition of the station, the uncertainty whether you still live, the deepest anxiety for your safety, the desire to furnish speedy relief, and acquire full information respecting the health of the station, and its fitness as a rendezvous during the sickly season, and the fear, that, debilitated as you are, you could not secure that information for us, have prompted the wish that Commodore Rodgers should undertake the expedition, and have induced him, cheerfully, and voluntarily to enter on its performance.

He will find united in it the sacred offices of private friendship

and public duty. A report that your health is restored will give to me, individually, and to the nation at large, most sincere gratification.

I am, very respectfully, dear sir, your most obedient servant,

SAMUEL L. SOUTHARD.

CAPT. DAVID PORTER, *Comm'g U. S. Naval Forces, West Indies and Gulf of Mexico.*

NAVY DEPARTMENT, *28th October*, 1823.

SIR: Your letter of the 27th inst. has been received. On your recovery from a dangerous illness, produced by great exposure and much suffering, you will be pleased, sir, to accept my sincere congratulations.

In conducting the movements of the squadron entrusted to your charge, you have displayed that intelligence, promptitude, and vigour, which effectually arresting the depredations of the freebooters, have afforded security to our trade, and justly entitle you to the unqualified approbation of this Department, and to the thanks of your country.

The conduct of the officers and men under your command, has been such as might have been expected, from the example of their chief; and you will be pleased, sir, to assure them of the consideration in which their services are held, and the high sense entertained of their devotion to a most arduous and dangerous service.

The want of medical aid, of which you so justly complain, will claim the early and special attention of this Department.

If the state of your health will permit, you will take upon yourself the general superintending direction of the equipment of the vessels of your squadron, now at this yard and at Norfolk. Let their commanders report to you their wants, that you may make them known to the Board of Navy Commissioners, who will cause every requisite supply to be furnished.

I am, very respectfully, sir, your most obedient servant,

I CHAUNCEY, *For the Secretary of the Navy.*

DAVID PORTER, Esq. *Commanding a squadron in the West Indies and Gulf of Mexico.*

Extract of a letter from the Secretary of the Navy to Commodore Porter.

NAVY DEPARTMENT, *December 2d*, 1823.

SIR: You will, as speedily as possible, with all the vessels under your command, resume your station at Thompson's Island, and continue your exertions to repress piracy, and protect our commerce.

It is the intention of the Department to increase the force under your command, as soon as it can be effected. To this end the frigate Congress will, after her arrival in the United States, be ordered to join you, and in the course of the Spring one or more sloops of war will be added to those already with you. The officers engaged in the survey of the coast of Florida will report to you, and you will communicate their proceedings to this Department.

You will keep as constantly as you can, one of your vessels in the neighbourhood of Vera Cruz, cruising between that port and Punto Lazardo, to protect our commerce in that quarter. As soon as possible send the Hornet, or one of the large schooners, to cruise on the Coast of Africa, touching at Cape Messurado, ministering to the wants of the African Agency, and thence returning in the usual tract of the slave ships.

Let the cruise of the vessel be such as will comport, as far as possible, with the health and comfort of the officers and men. Upon its return, you will report the proceedings to this Department, and send another vessel upon the same service.

Our national vessels ought not, and must not, be used for purposes of commercial adventure. You may receive on board specie, and the articles permitted by the act "for the better government of the Navy," belonging exclusively to our own citizens, and carry them from one port or place to another, when it does not, in any degree, interfere with your other duties, or violate the laws of the country where you are. You may also bring to the United States specie belonging to our own citizens, but you are, in no case, to permit any thing in the shape or character of public advertisements to be used, for the purpose of giving information that you will carry them. So many complaints have been publicly made on this subject, that you will carefully abstain from every thing which can give rise to unfriendly comments, and that the Government may know the extent to which the commercial interests of our citizens are benefitted by the assistance afforded by our public vessels on this point, and be prepared to answer any complaints on the subject which may be made by individuals or Governments, you will from time to time make reports to this Department of all the specie and other articles you may carry, the places to and from which you carry them, and the circumstances, terms, and conditions under which you do it."

I certify that the above is a true extract from the records of the Navy Department. CHAS. HAY, *Chief Clerk.*

11*th May*, 1825.

NAVY DEPARTMENT, 27*th December*, 1823.

SIR: In reply to your letter of the 29th ultimo, I inform you that it is not believed the Executive has the power to make any rule for the distribution of the premium received for the transportation of specie.

The public vessels will be in the neighbourhood of Vera Cruz, &c. and will be permitted to receive on board, and carry specie under the general orders heretofore given.

I am, very respectfully, &c.

(Signed,) SAM'L L. SOUTHARD.

Captain DAVID PORTER, *Comm'g U. S. Naval Forces, &c.*

NAVY DEPARTMENT, 10*th May*, 1825.

I certify that the above is a correct copy from the records of this Department. CHAS. HAY, *Chief Clerk.*

Extract of a letter from the Secretary of the Navy to Comm. David Porter, dated,
NAVY DEPARTMENT, *31st December*, 1823.

"I have heretofore sent you some accounts of piracies lately committed, and I herewith enclose two more, and request your particular attention to the letter signed by Mr. Lawrence, and the course pointed out as a mode of effecting the object."

Extract of a letter from the Secretary of the Navy to Commodore Porter, dated 31st December, 1823.

"I have received several communications from you, by the mail of this morning, and shall attend to them as early as possible.

"I have ordered Captain Biddle, (the orders sent herewith,) to report to you for duty, and you will despatch him in the Congress, to the Florida, on the Thompson's Island station, with such orders as you may consider necessary to execute the views of the Department, contained in the instructions heretofore given you. You will send with him all the vessels under your command, which are ready, and will permit no delay which is not indispensable.

"I have heretofore sent you some accounts of piracies lately committed, and I herewith enclose two more, and request your particular attention to the letter signed by Mr. Lawrence, and the course pointed out, as a mode of effecting the object."

I certify that the above is a true extract of the original on record in the Navy Department. CHAS. HAY, *Chief Clerk.*
11th May 1825.

NAVY DEPARTMENT, *January 19th*, 1824.

SIR: I transmit to you copy of a paper, having relation to the transportation of specie from Mexico, in vessels attached to the squadron, under your command, and in violation of the municipal regulations of that country.

I am, very respectfully sir, your obedient servant,
(Signed) SAML. L. SOUTHARD.
Com. DAVID PORTER, *Commanding U. S. W. India squadron, Norfolk, Va.*

I certify that the above is a true copy from the original on record in the Navy Department. CHAS. HAY, *Chief Clerk.*
11th May, 1825.

NAVY DEPARTMENT, *Jan. 21st*, 1824.

SIR: In reply to your letter of the 14th inst. I have to observe, that it is my wish, that the operations on the coast of Africa, should commence as early as practicable, if one of the vessels under your command can be possibly spared for the purpose.

I am, very respectfully, sir, your most obedient servant,
(Signed,) SAM'L L. SOUTHARD.
Com. DAVID PORTER, *Commanding U. S. West India Squadron, Norfolk, Va.*

I certify that the above is a true copy from the original on record in the Navy Department. CHA'S HAY, *Chief Clerk.*
May 11th, 1825.

(Copy.)

NAVY DEPARTMENT, *Feb. 19th*, 1824.

SIR: It is to be regretted that so long a delay in your sailing, creating so much personal inconvenience to yourself, has been necessary.

In consequence of certain matters of public importance, I may be obliged to detain you a very few days longer than the Court Martial may require your attendance. I wish you, however, immediately to inform me, at what time you suppose you will be relieved from your attendance on the Court.

I am, respectfully, &c.

(Signed,) SAM'L L. SOUTHARD.

Com. DAVID PORTER, *Commanding U. S. squadron, W. I. &c. Norfolk.*

Extract of a letter from the Secretary of the Navy to Commodore Porter, dated the 17th May, 1824.

"Congress has not, until within a few days, passed an appropriation law for the current year. This will account to you for one or two of the drafts of Purser Thornton not having been honoured, and for the delay in preparing the vessels to join you. It was impossible, without funds, to fit out the Hornet or the Porpoise, and to prepare a larger vessel.

"There will be now as much activity as possible, but it is feared one cannot be prepared in time to reach you before the sickly season commences. It shall however be done, if possible."

I certify that the above is a true extract of the original on record in the Navy Department. CHA'S HAY, *Chief Clerk.*

11th May, 1825.

NAVY DEPARTMENT, *24th May*, 1824.

SIR; Your letter of the 3d instant has been received, advising that a bill of exchange, drawn by purser Thornton upon this Department for $5,000, had been returned protested; this circumstance is to be regretted both as it respects the injury done to the credit of Navy bills, and the damages incurred in the present instance. The refusal to pay this draft when offered, was occasioned entirely by the want of funds, in consequence of the delay in the passage of the annual appropriation bill by Congress, and an occurrence of the kind, I trust, will not again take place.

I am, very respectfully, your most obedient servant,

(Signed,) SAM'L L. SOUTHARD.

Com. DAVID PORTER, *Commanding U. S. Naval forces, West Indies, Gulf Mexico, &c.*

I certify that the above is a true copy from the original on record in the Navy Department. CHA'S HAY, *Chief Clerk.*

May 11th, 1825.

(Copy.)

NAVY DEPARTMENT, *May 31st*, 1824.

SIR: Your letter of the 4th of May has been received. The Decoy will be prepared to return to you as speedily as possible. No provision has been made for the repairs of the Greyhound; and it is probable that she will be laid up or sold.

When any vessels are ordered home for repairs, they must be reported to the Department, that orders may be issued for the purpose.

The amount of force, at this time, on the station, is less than was intended; but the delay in passing the appropriation law, has rendered it impossible to send you, either the Hornet or Porpoise. They will be both despatched now, as soon as they can be prepared. This delay is the more to be regretted, as the Hornet must either encounter the rainy season, or not go to the coast of Africa, as was originally designed.

You have now under your command, the John Adams, Hornet, Spark, Porpoise, Shark, Sea Gull, Decoy, and seven small schooners, in all fourteen vessels, exclusive of the barges. I did intend to send a larger vessel than any of them, but the amount of the appropriation, and the time it was made, will probably put it out of my power. It shall still, however, be done, if it can be accomplished.

I regret the state of your medical aid. You have now eleven medical officers attached to the station; and within ten months past, there have been under your command, no less than five surgeons and seventeen surgeon's mates; many of them acting as surgeons, and fitted for the office. With such numbers your medical assistance ought not to have been so reduced as you state it to be at present. Neither these nor other officers must be permitted to leave the station for slight excuses. If they are, it will be impossible for the Department to keep the station supplied. All that can be done with the numbers for which provision is made by law, will be done. In the mean time, those with you must be retained, unless absolute necessity compels them to leave you.

I am, very respectfully, sir, your most obedient servant,

(Signed,) SAM'L L. SOUTHARD.

Com. DAVID PORTER, *commanding U. S. Naval force, West Indies, Gulf of Mexico and Coast of Africa, Thompson's Island.*

I certify the foregoing to be a true copy from the records of the Navy Department. CHA'S HAY, *Chief Clerk.*

May 11th, 1825.

NAVY DEPARTMENT, *19th June*, 1824.

SIR: I have found it necessary to send the Hornet to La Guayra, and elsewhere.

Captain Kennedy will, on his passage, report to you, and receive your orders for his government, after he shall have accomplished what is directed by the Department.

The Porpoise I have ordered to proceed to the coast of Africa, in the place of the Hornet. Lieutenant Skinner will, on his return, report to you for orders.

I am, very respectfully, sir, your most obedient servant,

(Signed) SAML. L. SOUTHARD.

Com. DAVID PORTER, *Commanding U. S. Naval force, West Indies, Gulf of Mexico, and Coast of Africa, Thompson's Island.*

NAVY DEPARTMENT, *11th May*, 1825.

I certify that the above is a correct copy from the records of this Department. CHAS. HAY, *Chief Clerk.*

NAVY DEPARTMENT, *29th June*, 1824.

SIR: I have the honour to transmit to you, herewith, copies of letters, bearing date the 23d of April, 15th, 17th, 24th, and two of the 31st of May, 1824, addressed to you at Thompson's Island, which it is presumed you have not received, and to which I beg leave to call your attention. Should I find, upon further examination, any more which possibly may not have been transmitted in time to reach you, copies shall be immediately furnished.

I am, with great respect sir, your obedient servant,

(Signed) CHAS. HAY.

Capt. DAVID PORTER, *Commanding U. S. West India squadron—present.*

I certify that the above is a true copy from the original on record in the Navy Department. CHAS. HAY, *Chief Clerk.*
11th May, 1825.

NAVY DEPARTMENT, *19th July*, 1824.

SIR: I have received letters this day from Lieutenant Commanding John D. Sloat, announcing his arrival at New York. I send you, herewith, a copy of a petition, from sundry inhabitants, and merchants, and others, of Matanzas, praying for a more efficient protection to our commerce.

You will perceive, from this statement, the necessity for the immediate return of the Shark, Grampus, and Spark, to their station, and you will therefore order them out as speedily as possible.

I am, very respectfully sir, your obedient servant,

(Signed) SAML. L. SOUTHARD.

Capt. DAVID PORTER, *Commanding U. S. West India squadron, Bedford Springs.*

I certify, that the above is a true copy from the original on record in the Navy Department. CHAS. HAY, *Chief Clerk.*
11th May, 1825.

(Copy.)

NAVY DEPARTMENT, *July 20th*, 1824.

SIR: It is the wish of the Department, that you cause a portion of the naval force under your command, to touch, occasionally, at

the port of Tampico in Mexico, and to afford protection to the citizens of the United States, engaged in commerce with that port.—Your attention is particularly directed to this part of the Mexican coast, in consequence of the representations contained in your communication of the 14th inst.

I am, very respectfully, &c.

(Signed,) SAM'L L. SOUTHARD.

Com. DAVID PORTER, *Comm'g. U. S. Naval Force, W. Indies, Gulf of Mexico, and Coast of Africa, present.*

I certify that the above is a true copy from the records of the Navy Department. CHAS. HAY, *Chief Clerk.*

May 11th, 1825.

(Copy.)

NAVY DEPARTMENT, *July 28th*, 1824.

SIR: I enclose to you copy of a letter from Capt. Wm. Norris, commander of the brig John, of Newport, R. I. detailing outrages committed on him and his crew near Matanzas; and I have to request that you will take such measures on the occasion as the case requires.

I am, very respectfully, sir, your obedient servant,

(Signed) SAM'L. L. SOUTHARD.

Com. DAVID PORTER, *Comm'g U. S. Naval Force, West Indies, Gulf of Mexico, present.*

I certify the foregoing to be a true copy from the records of the Navy Department. CHAS. HAY, *Chief Clerk.*

NAVY DEPARTMENT, *11th May*, 1825.

NAVY DEPARTMENT, *July 29th*, 1824.

SIR: I enclose a copy of a letter from William Neilson, Esq. President of the American Insurance Company of New-York, in relation to the capture of the Mercator, having on board a valuable cargo; and I request that you will make such a disposition of the force under your command as will render piratical aggressions of this description less frequent, if it be possible.

I am, very respectfully, sir, your most obedient servant,

(Signed,) SAM'L L. SOUTHARD.

Com. DAVID PORTER, *Comm'g U. S. Naval Force, West Indies, Gulf of Mexico, &c. Bedford Springs.*

I certify that the above is a true copy from the original on record in the Navy Department. CHAS. HAY, *Chief Clerk.*

11th May, 1825.

Extract of a letter from the Secretary of the Navy to Com. David Porter, commanding U. S. Squadron, West India station, dated

NAVY DEPARTMENT, *9th August*, 1824.

"You will execute this order with all practicable despatch, in order that the John Adams may not be unnecessarily detained."

Extract of a letter from the Secretary of the Navy to Commodore D. Porter, dated 14th October, 1824.

It is deemed expedient by the Executive that you proceed as speedily as possible to your station, in the John Adams, that, by your presence there, the most efficient protection may be afforded to our commerce, and you may be ready to meet any contingencies which occur.

The Constellation will be fitted for sea, and sent to you as speedily as possible."

I certify that the above is a true extract of the original on record in the Navy Department. CHAS. HAY, *Chief Clerk.*

11th May, 1825.

Extract of a letter from the Secretary of the Navy to Commodore David Porter, dated October 15th, 1824.

"I enclose copy of a Resolution of Congress.

"The surveys and examinations under it, so far as they relate to Thompson's Island, the Dry Tortugas, Tampa Bay, and Pensacola, are confided to your care, superintendence and direction. The surveys of the two former places, already made, are supposed to be sufficient. Several officers have been directed to report to you to aid in this duty, and you will assign for it such vessel under your command as you think most proper."

Extract of a letter from the Secretary of the Navy to Capt. David Porter, dated 21st October, 1824.

"The presence of a commander on the station being now indispensable, you will proceed to it."

(Copy.)

NAVY DEPARTMENT, *27th December*, 1824.

SIR: Your letter of the 15th November last, relating to the extraordinary transactions at Faxardo, in the Island of Porto Rico, on the day of that month, has been received and considered. It is not intended, at this time, to pronounce an opinion on the propriety of those transactions on your part, but their importance demands for them a full investigation, and you will proceed, without unnecessary delay, to this place, to furnish such explanations as may be required, of every thing connected with their cause, origin, progress, and termination. For that purpose, you will bring with you those officers whose testimony is necessary, particularly Lieut Platt, and such written evidence as you may suppose useful.

You will return in such convenient vessel as may be best spared from the squadron; and, on your leaving the station, you will deliver the command to Capt. Warrington, with all such papers, instructions, and information, as may be useful to enable him, in the

most efficient manner, to accomplish all the objects for which th vessels, now under your command, were placed there.

I am very, &c. (Signed) SAM'L L. SOUTHARD.

Comm'e D. PORTER, *Comm'g, &c. &c.*

I certify the above to be a true copy of the original on record i the Navy Department. CHAS. HAY, *Chief Clerk.*

11th May, 1825.

NAVY DEPARTMENT, *March 2nd*, 1825.

SIR: Your letters of yesterday, and this morning, have been re ceived; and they will receive immediate attention the moment th the rising of Congress will give an opportunity to the Department attending to them.

I am, very respectfully, sir, your obedient humble servant,

(Signed,) SAM'L L. SOUTHARD.

Com. DAVID PORTER, *U. S. Navy, Present.*

I certify that the above is a true copy from the original on recor in the Navy Department. CHAS. HAY, *Chief Clerk.*

May 11th, 1825.

NAVY DEPARTMENT, *16th March*, 1825.

SIR: It has become my duty to apprise you of the determinatio of the Executive, that a Court of Inquiry will be formed, as soon a circumstances will permit, to examine into the occurrence at Fa ardo, which was the occasion of your recal, and also to compl with the request contained in your letter of the 8th inst.

It was the intention of the Department in ordering Captain Wa rington to the West Indies, to relieve you from the command the squadron there. I am, respectfully, &c.

(Signed,) SAM'L L. SOUTHARD.

Com. DAVID PORTER, *U. S. Navy, Present.*

I certify that the above is a true copy from the original on r cord in the Navy Department. CHAS. HAY, *Chief Clerk.*

May 11th, 1825.

NAVY DEPARTMENT, *23rd March*, 1825.

SIR: I enclose to you, herewith, copy of a letter from Thom Randall, Esq. in reply to one of mine, apprising him that a Cou of Inquiry would be in a few days convened for the investigation your conduct. I am, very respectfully, &c.

(Signed,) SAM'L L. SOUTHARD.

Com. DAVID PORTER, *U. S. Navy, Present.*

NAVY DEPARTMENT, *11th May*, 1825.

I certify that the above is a correct copy from the records this Department. CHAS. HAY, *Chief Clerk.*

WASHINGTON, *22nd March*, 1825.

SAMUEL L. SOUTHARD, *Esq. Secretary of the Navy:*

SIR: I have the honour to acknowledge the receipt of your letter of yesterday, which informs me that you are requested by Commodore Porter to apprise me, that a Court of Inquiry will be held in a few days; one object of which will be to investigate his conduct, in relation to the carrying of specie, and neglect of his duties in the suppression of piracy.

Doubtless Commodore Porter in requesting, and you, sir, in making, this formal communication to me of a fact, which had already been published to the world, considered the notice of some special import to me, and designed that it should produce a correspondent effect upon my conduct. But as your letter does not state the relation in which I am considered as standing either to Commodore Porter, or to the Court, nor prescribe any course to be pursued by me, I am at a loss to know the object it was designed to produce.

I have therefore to request, that you will be pleased to state, how I am particularly interested in the fact you announce, and the effect your letter was designed to produce upon my conduct, in reference to the approaching investigation.

I have the honour to be, very respectfully, sir, your most obedient servant,

(Signed,) THOMAS RANDALL.

NAVY DEPARTMENT, *11th May*, 1825.

I certify that the foregoing is a correct copy from the original, on file, in this Department, and that it is a copy of the letter alluded to in the letter from the Secretary of the Navy to Commodore David Porter, dated 23rd March, 1825.

CHAS. HAY, *Chief Clerk.*

NAVY DEPARTMENT, *24th March*, 1825.

SIR: Midshipman Rowan, of the West Indian squadron, has applied for leave of absence to visit his friends in Ohio. I have suspended a decision at his request, until I can be informed, whether you will require his testimony in the investigation which you have called for.

Your early attention to this is requested.

I am, respectfully, &c.

(Signed) SAML. L. SOUTHARD.

Com. DAVID PORTER, *U. S. navy, Washington.*

NAVY DEPARTMENT, *11th May*, 1825.

I certify that the above is a correct copy from the records of this Department. CHAS. HAY, *Chief Clerk.*

Extract of a letter from the Secretary of the Navy to Com. David Porter, dated 20th April, 1825.

"Enclosed you will receive a copy of the precept which has been issued for a court to make the inquiry, instituted by the executive, into your conduct at Faxardo. You will perceive that the same court is also directed to make the inquiry which has been granted at your own request."

Official Communications from Commodore Porter to the Department.

(Extract.)

BALTIMORE, *December 21st*, 1823.

SIR: In pursuance of the instructions of the Board of Navy Commissioners of the 17th, I yesterday purchased eight schooners, which will all sail on the 23rd or 24th for Norfolk, to receive their armaments and equipments. Most of the vessels are quite new, requiring no repairs, and may be sent on service at a very trifling expense.

The cost of the whole, will be, when delivered at Norfolk, 10,190 dollars, averaging a little over 1273; having for their outfits 327 dollars each, which I presume will be sufficient; but as this will be a part of the operation, over the expense of which I can have no control, I cannot pretend to say that they will not exceed the limits which you have prescribed to me.

I have named these vessels as follows, and their tonnage is annexed, viz:

Ferret, 51;—Weazle, 53;—Terrier, 61;—Jackall, 47;—Fox, 51;—Wild Cat, 48;—Grey Hound, 65;—Beagle 52.

They are all of light draft of water, and have every appearance of sailing well. I have not in every case been able to get the owners to deliver them at Norfolk, but shall labour under no inconvenience on that account, as there are a number of men recruiting to be sent down, who can go to their officers in those which we have to deliver.

(Signed) D. PORTER.

The honourable the Commissioners of the Navy, Washington.

A return of the vessels and commanding officers attached to the squadron, under the command of Commodore D. Porter, for the suppression of piracy.

United States ship Peacock, Stephen Cassin, Esq. Master Commandant.

United States Schooner Shark, Matthew C. Perry, Lieutenant Commandant.

United States schooner Greyhound, John Porter, Esq. Master Commandant.

United States schooner Jackall, Thomas H. Stephens, Lieutenant Commandant.

United States Galliot Sea Gull, William H. Watson, Lieutenant Commandant.

United States Schooner Fox, William H. Cocke, Lieutenant Commandant.

United States schooner Wild Cat, Charles W. Skinner, Lieutenant Commandant.

United States schooner Beagle, John T. Newton, Lieutenant Commandant.

United States schooner Ferret, Samuel Henley, Lieutenant Commandant.

United States schooner Terrier, Robert M. Rose, Lieutenant Commandant.

United States schooner Weazle, Beverly Kennon, Lieutenant Commandant.

Decoy Store ship, Lawrence Kearney, Lieutenant Commandant.

February 13th, 1823.

(*Extract.*)

U. S. SCHOONER PEACOCK, *Hampton Roads, Feb. 23rd*, 1823.

SIR: I have the honour to inform you, that I am now anchored in these Roads with the whole squadron, with the exception of the barges, which will be ready to leave Norfolk in the course of two days, and will proceed direct to Thompson's Island.

My course with the squadron, will be circuitous, and will be regulated by your instructions of the 4th inst.

(Signed,) D. PORTER.

Directed to the Honourable S. Thompson, Secretary of the Navy, W. City.

Commodore Porter to the Secretary of the Navy.

U. S. SHIP PEACOCK, *St. Thomas, March* 3, 1823.

SIR: I have the honour to inform you, that I this morning arrived at this place, with all the squadron under my command, except the Grey Hound, which vessel separated in a gale.

I have despatched Lieutenant Commandant Perry, with the Shark and three small schooners, to scour the south side of Porto Rico, and shall sail to-morrow with the rest of the squadron for St. John's, where I have been informed several privateers have been fitted out, which have done considerable injury to our commerce.

I am also informed, that there is a large British naval force in those seas, a squadron of which, apparently on the look-out, I fell in with this morning.

I have the honour to be, with great respect, your ob'dt servant,

D. PORTER.

Honourable S. THOMPSON, *Secretary of the Navy.*

Commodore Porter to the Secretary of the Navy.

U. S. SHIP PEACOCK, *Matanzas, 28th March*, 1823.

SIR: I have the honour to inform you, that I arrived here on the *26th*, after giving to the north coast of St. Domingo and Cuba as

thorough an examination as was practicable, with the two schooners and the boats of this ship, with the greater part of her crew; while all the keys off shore, pointed out to me as the rendezvous of pirates, were examined by the ship.

The service has been very fatiguing to those employed, for more than a week past, in open boats, and in the most dangerous and intricate navigation in the world; but it has been performed cheerfully, and I wish I could say successfully; but we have not, in this long route, been able to detect a single pirate, although our suspicions rested on many; nor can I conceive how we shall ever be able to detect them: for they are one day fishermen, another droguen, wood-cutters, salt gatherers, or pirates, as best suits them. Every Spaniard is armed with a knife, and this weapon, according to their mode of warfare, is enough for them. Were we to apprehend every suspicious Spaniard and vessel, their coasting trade would also be entirely broken up. Since my arrival here, I have heard of the most horrid atrocities committed by them. They now spare no one; whole ships' crews are indiscriminately burnt with their vessels; and there has been an instance recently of the murder of a crew under the wall of the Moro.

I have written to the Captain General a letter similar to the one I wrote to the Captain General of Puerto Rico, calling on him for information and co-operation, and await his reply, which I expect tomorrow or next day, and shall then proceed to Thompson's Island, to make arrangements for the most energetic operations. I shall there meet all the force which I despatched from Aguadilla, with the exception of the Shark.

On my arrival here, I found a fleet of American vessels, waiting for convoy, some of which had been ready for sea twenty days, and was surprised and mortified to find that all our vessels of war had left this coast, and our commerce here entirely unprotected.

The only protection I can give them is the two small vessels, which will convoy them beyond the reach of pirates, and after examining a bay to windward, which has been their resort for some time, will join the squadron at the place of rendezvous.

The departure of those vessels of war stationed here for the protectionof our commerce, and which I calculated on finding here, has caused me some embarrassment: as it becomes necessary to employ part of the force which was intended for the pursuit and destruction of pirates to give that protection to our trade which it has a right to. The reasons for their departure are unknown to me, and I must leave it to their commanders to make the necessary explanations. Five piratical vessels have for some weeks been watching the fleet in the bay, which I shall cause to be examined; and since our arrival, as you will find by the enclosed copy of a note from a highly respectable source, they have dispersed and disarmed. I shall do all in my power, with whatever force may be at my disposal, to give protection to our commerce, and effect the destruction of the pirates; and protection shall be the primary object; but, to fulfil the expec-

tations that have been formed, we shall want a
the large schooners, in addition to those we n

I was surprised to learn, on my arrival her
been written by the Captain General to the gov
ers of the different districts of the island, forbi
my squadron into any of its ports, or the landi
forces in pursuit of pirates. The island appear
agitated state, and the Government appear to ....
States would consider it a very desirable acquisitio.
every means in my power to satisfy them that my objects are totally
unconnected with any thing of a political nature.

All vessels ordered under my command, I beg may be directed to report to me at Thompson's Island.

I have the honour to be, very respectfully, your ob't servant,

D. PORTER.

Hon. Smith Thompson, *Secretary of the Navy, Washington city.*

P. S. Since writing the above, I have heard of a pirate to leeward, and have despatched the two schooners and boats after her. I shall know the result of the expedition in the course of a few hours, and have good reason to believe it will prove successful.

Extract of a letter from Commodore Porter to the Secretary of the Navy, dated

U. S. Steam Galliot Sea Gull, *Matanzas, April* 16, 1823.

Sir: For the last two weeks, our movements and occupations have been so various, that, to enter into a full detail, would swell too much this communication; to be brief, therefore, I shall merely state that, within that time, we have built our store houses on Thompson's Island, landed all our stores, collected together all the schooners of the squadron, and stationed them at different points on the coast of Cuba; fitted out all the barges which were also on the coast, and captured one pirate, a pilot boat schooner, formerly the *Pilot* of Norfolk, armed with one long twelve pounder, and commanded by Domingo, the notorious head of this horde of desperadoes, who formerly commanded the Saragariana—the vessel, in the attempt to capture which, the gallant Allen fell—Domingo, and two of his crew, only escaping to the shore with their lives, and one was taken.

The Pilot had been in possession of the pirates eight days; I had heard of her capture on my first touching in at Matanzas with the Peacock, and left the two schooners the Wild Cat and Beagle, to look out for her and the Saragariana to windward, while the Peacock shaped her course toward Havana; but, not finding her, I hastened to Thompson's Island, and two of the barges being got ready, and manned from her fine crew, I despatched Capt. Cassin with them and two of the schooners, which soon arrived, to examine from Havana down to Cape Antonio, and thence to Trinidad, on the south side of the Island. A piracy having recently been committed near the latter place, Captain Cassin left Thompson's Island on

the morning of the—, and next morning received information that the Pilot had been seen off the Moro ; he, consequently, sent Lieut. Stribling to windward, along shore, with the barges, while he kept a look-out for her near Havana; on the same day, the Wild Cat and Beagle fell in with her to leeward of Matanzas, chased her within gun-shot the greater part of the day, giving and receiving from the Pilot a smart fire ; but night coming on, she eluded them by getting close under the land, hauling down all sail, and getting off with her sweeps. In about an hour after this, Lieut. Stribling ran along side of her with his two boats, one commanded by himself, the other by Midshipman Kelly, acting as Lieut. of the Fox, and took possession of her, after a fire of ten minutes, in which time, all the crew, except the Captain and three others, one of whom is taken, were killed—the pirate having time to fire his long gun only once ; and what adds to the satisfaction I feel in giving these particulars, which I have obtained from Lieut. Skinner, who fell in with Lieut. Stribling and his prize next morning, is, that no one was even wounded on board our boats, so sudden and effectual was the attack, which does great credit to Lieut. Stribling, and all those concerned with him in this gallant affair.

I have with me, here, the Sea Gull, three barges, and one of the boats belonging to the Peacock, besides the vessels intended for convoy. The barges I have placed under the command of Lieut. Cassin, of the Peacock ; which ship as well the Decoy, I have been compelled to lay up, in order to obtain men to man the barges, not having found a single vessel on the station on my arrival.

I shall despatch Lieut. Cassin to windward, so soon as the weather will permit, where I have strong expectation, from information received, of breaking up a nest of these vagabonds. Two schooners, under Lieut.Com. Kearney, are stationed off Havana, to give convoy; two are now refitting to relieve some of the others, and we are now in full operation. But it is greatly to be regretted that I should have been compelled to employ for convoy those small schooners, which were intended solely for the purpose of hunting the pirates out of their hiding holes ; but, notwithstanding I have not, including the crew of the Peacock, the number of men required to man one of our large frigates, I hope to effect the object for which I was sent here, and, for a time, give protection to our commerce by convoy. Yet the duty is severe, and more than men can long bear; some respite will be necessary. But it would be unjust in me if I did not say, that every officer and man under my command enter with the utmost alacrity and zeal into the severe duties which this novel service imposes on them ; and, although most of them have scarcely put their feet on shore from their cramped vessels since they left the United States ; although they have suffered all that men could suffer in crossing the Gulf Stream, in heavy gales, in open boats ; still, not a murmur has been heard from any one. Some, from sickness, and finding themselves unequal to the fatigue, have asked leave to return, and I have indulged them ; but, in gen-

eral the squadron enjoys uncommon health, and there is every prospect of its continuance.

Domingo, the Captain of the Pilot, was in this place yesterday, the day of my arrival, and has since disappeared. He acknowledges the death of all his crew, except those before mentioned.

The Pilot is a remarkable sailer, was a constant trader to Havana. Domingo had long set his heart on having her, and, immediately on capturing her, armed and took the command of her. I hope soon to give you some further account of him and the Saragariana. There was one act of politeness in this singular character, which I cannot omit mentioning. There were a large number of letters for myself, and the officers of the squadron, on board the Pilot when she was taken, together with many for merchants in Cuba. Domingo possessed himself of all the mercantile letters, and delivered to the Captain of the Pilot all those for us, desiring him to send them to us, as he did not wish to deprive us of the opportunity of hearing from our friends. He said he had no ill-will against us; we were but doing our duty.

The Peacock, sir, is too fine a ship to keep in a state of idleness; and without her crew, I should not have been able to man the barges, by far the most efficient force we have.

In the present state of the establishment at the Island, it will be in vain to look for those comforts which the fatigues of the kind of life we now lead, make more necessary to us than they would be at other times, without the conveniences which a ship affords. I do not make this remark so much on my own account as on account of others. The accommodations of the Peacock are small. We have been a great inconvenience to her officers; and it has been the source of great pain to me to witness how much myself, and those who necessarily accompanied me, have been to Captain Cassin and his officers, who have made every sacrifice of their own comfort for our accommodation.

It would be extremely satisfactory to me, and, I am persuaded, would be highly advantageous to the public interest, if I could have a ship and crew for the accommodation of myself and those with me. The Erie would suit me extremely well, if she had a poop on her. I want no larger or better ship, and I beg I may not be refused, for, at present, I am completely on the parish, not living as I could wish, but as I can. This is the only request I have made since I embarked in the enterprise, in which I am individually concerned; and it would not have been made, were I not satisfied that the public interests would be more benefitted than my own comfort would be promoted. If I cannot have the Erie, I beg that I may have the Macedonian, or some one other of our frigates; but, whatever ship may be sent, I hope she may be furnished with a poop. It is essentially necessary in this climate, and on such a service.

I have the honour to be, your very obedient servant,

D. PORTER.

The Hon. Secretary of the Navy

Commodore Porter to the Secretary of the Navy.

U. S. STEAM GALLIOT SEA GULL, *Matanzas, April 24*, 1823.

SIR: In my last, I informed you, that I had despatched the barges to examine a Bay to windward of Point Yeacos; and, having intelligence of three piratical schooners in the river Palmas, I left this place on the 19th, joined the barges next day, near Key Blanco, and, after, a laborious search of two days, discovered the river, where we found the remains of the vessels which the pirates had burnt, evidently a short time before our arrival there; I consequently returned to this place, sending three of the barges along the coast to Havana, to which place I shall proceed, after giving convoy to the vessels in this place, having found it necessary to send the two vessels employed here on this service, to Thompson's Island, to refit.

I believe, sir, I can now say with safety, that there is not a pirate afloat on this part of the coast of Cuba, larger than an open boat; and even that is doubtful, the Saragoziana, in her flight, from here, having been taken by two British sloops of war at the east end of the Island.

I have the honour to be, your obedient servant,

D. PORTER.

HON. SMITH THOMPSON.

Extract of a letter from Commodore David Porter to the Secretary of the Navy, dated U. S. Galliot Sea Gull, Allenton, Thompson's Island, May 10, 1823.

"Since I last had the honour to address you, I have returned to this place, with the Sea Gull and barges, and found here Captain Cassin, with the schooners and barges that accompanied him.

"The report of his cruise is enclosed. Our last cruise has been altogether a most arduous and fatiguing one; and, although we have not many trophies to show, it has not been without effect: the result has been, the capture of a piratical schooner and a very fine felucca; the destruction of one on shore, the burning of three schooners in the Rio Palmas, and about a dozen of their houses in the different establishments to leeward of Bahia Honda, and inside the Colorados Reef; the complete dispersion of all their gangs, from Rio Palmas to Cape Antonio; and, what will be of no little importance to all our future operations, a most thorough and intimate acquaintance with the whole line of coast, from Cayo Blanco to the east, down to Cape Antonio, in the west. We have taken only one prisoner, and I shall endeavour to use such information as I can squeeze out of him to advantage. I shall despatch the Peacock today for La Vera Cruz, to relieve the Shark, and shall now be left with only my small vessels, two of which, with two barges, (which I have found great difficulty in manning from the Sea Gull and Store Ship.) I shall send off this evening under the command of Lieut. Comdt. Watson, on an expedition among the Keys in the Old Straights, and thence, around the Island, to return by the way of Cape Antonio.

"Two schooners, under the command of Lieut. Comdt. Rose, are making the circuit by the other route, commencing at Point Yeacos, going round Cape Antonio, and returning by the Old Straights; two, under command of Lieut. Comdt. Skinner, are convoying from Havana; and the remaining two are careening, and will, in a few days, sail for the protection of our commerce; and the three remaining barges are hauled up, for the want of men.

"I beg you, sir, to take into consideration the uncomfortable situation of myself and those with me, and, as early as may be possible, send me a frigate, or a large sloop of war fitted for the climate, or I shall otherwise, most reluctantly, on account of health, be compelled to relinquish a service which I set my heart on accomplishing—the total suppression of piracy in the West Indies and Gulf of Mexico; it has been effected about the north side of Cuba, and, with suitable means, I have no doubt of effecting it elsewhere.

"Not one of the vessels of war belonging to the West India Station, except those which I brought with me from the United States, have yet shewn themselves, nor can I get any intelligence of them, by which I can be enabled to command their services.

"When I left Matanzas, the country was alarmed by large bands of robbers, well mounted and armed, who had plundered several estates, and committed some murders in the neighbourhood of the city. Bodies of horse had been sent in pursuit of them, and the militia were all under arms; some prisoners had been taken, and it was said that those bands were composed of the freebooters which lately infested the coast, and who, being compelled to abandon the Ocean, had taken up this new line of business."

Extracts of a letter from Commodore David Porter to the Secretary of the Navy, dated

SEA GULL, *Allenton, May* 11, 1825.

"We are very much in want of one hundred seamen and ordinary seamen, in addition to our present number, to enable us to carry on our operations; and if we do not obtain them, I shall be under the necessity of discontinuing the employment of the barges; at present, I can only man two of them, and to do so, am compelled to lay up this vessel and the Decoy.

We shall also want a number of officers, of every class, how many I am unable to say yet, but, from present appearances, I am induced to believe that many will (in not a very long time) wish to return to the United States. The service we are employed on is a very harrassing one, and, if it should not occasion much waste of life, it will, at least, try the strength of our constitutions, and our capacity for the endurance of fatigue and privations.

The commanding officer of marines states to me that he requires, in addition to his present force, fifty officers, non-commissioned officers, and privates; and from the difficulty of supplying the guards which I require, I should presume that a larger number would be necessary.

From the importance of the trade of Cuba and the Gulf of M ico, the whole of which is now completely protected from t place, with a force not equal to one frigate, I presume my requ will not be considered extravagant. The arrivals and departu of American vessels from the port of Havana alone, average ab thirty per week, and those from Matanzas about twenty. Not a d elapses but that great numbers of American vessels are to be n passing through the Gulf, and since an establishment here, th daily in numbers pass in sight of us.

I mention those facts, to give you an idea of the importance this station, and to show the propriety of augmenting the force t the additions which I have asked.

A frigate, or a large sloop of war, is indispensable to us, and w cannot exist with any thing like comfort without one.

Thrown as we are on a barren and desolate Island, that does n supply even water, I hope our situation may be made as free fro sufferings as the Department can, without inconvenience to th public interest, make it."

U. S. GALLIOT SEA GULL,

Allenton, Thompson's Island, May 19, 1823.

SIR: I have the honour to inform you that not a single piratic act has been committed on the coast of Cuba, since I organized an arranged my forces.

I have the honour to be, your obedient servant,

D. PORTER.

Hon. Secretary of the Navy.

Extracts from a letter of Commodore D. Porter, to the Secretary of the Nav dated,

U. S. GALLIOT SEA GULL, *Allenton, May* 23, 1823.

"SIR: We have a vastly important commerce to Havana an Matanzas, which is now left to the protection of a small schoone of three guns, at each place: all the others, with the exception o two, coming in to repair, are cruising for pirates on the south sid of the island, and in the Old Strait of Bahama.

"I am at present left with only the Sea Gull: as the store ship is o the point of sailing for a load of water for us, the lagoons on the isl and having dried up.

"I beg, sir, that our situation may be taken into consideration and that some means may be speedily employed to ameliorate it The principal thing wanting, is a large vessel, and the aid and com forts which she would afford. At present, I have no place to shel ter me but the awning of this small vessel. I cannot obtain hands enough for my use to man a boat. I have no comforts whatever and I find my health gradually sinking. I would be the last to com plain without cause: but the rainy and sickly season is now comin on, and I should fail in my duty, were I not to acquaint you with ou true situation.

"Allow me to suggest, that this appears to me to be the most suitable place to give protection to the commerce of the Gulf of Mexico, and that all the forces now employed at New-Orleans, could be much more advantageously employed here."

Extract of a letter from Com. David Porter to the Secretary of the Navy, dated

SEA GULL, ALLENTON, *June 4th*, 1823.

"I yesterday was informed of a piratical schooner on the south side of Cuba, which had captured two vessels, and I immediately despatched the Greyhound in pursuit of her.

It is with regret I inform you, that I am compelled to discontinue giving convoy from Havana, as my forces are now so scattered, that it cannot be done without neglecting the main object of the expedition. When our cruising was on this side the island, I found less difficulty in the thing.

We are greatly in want of larger vessels, and more men, and I sincerely hope that they may be sent as early as possible."

Commodore Porter to the Secretary of the Navy.

U. S. GALLIOT SEA GULL, *Allenton, June 6th*, 1823.

SIR: We are greatly in want of medical aid on this station.—Doct. Williamson, in charge of the hospital, and Doct. Edger, in charge of the sick in the harbour, have both been taken seriously ill, within a few days, which leaves me with only one surgeon's mate. The small vessels are equally in a suffering condition, having but one acting mate between two of them; and, had it not been for the few acting appointments given by me, they would have been entirely destitute.

I beg, sir, that our situation may be taken into consideration, and as the sickly season is fast approaching, I hope that several surgeon's mates may be sent out to us. SIX, at least, in addition to our present number, are required.

I have the honour to be, with great respect, your obedient servant, D. PORTER.

Honourable Secretary of the Navy.

Extracts from a letter of Commodore D. Porter to the Secretary of the Navy, dated

SEA GULL, *Allenton, June 24th*, 1823.

"SIR: By the Hornet, just arrived, I am informed of the capture of two piratical launches by the Ferret, Lieut. Com'dt Newell, a few leagues to the west of Matanzas.

"It appears that they were chased into a small harbour, where there was not water sufficient for the schooner; and on the approach of her boat, (carrying only four persons,) they, (about forty,) commenced a fire on her from behind the rocks, and nearly sunk her. The schooner then opened a fire on them with her nine pounder,

drove them from their skulking places, and took possession launches.

"Such is the account I have received from Lieut. Shubr the Hornet, whose ship fell in with Lieut. Com. Newell passage.

"There is good reason to believe that these are the boats plundered the American brig Mary Joan, Captain Hubbard, the Bay of Matanzas, twelve days since.

"It appears that these launches were captured about th inst.; that their cruise has been only of six days' duratio that they were taken in not more than three days after I re information respecting them.

"It is expected that this prompt detection and punishment first attempt at piracy, since the arrangement of my forces coast, will deter them, at least for a time, from fitting out an expeditions."

Commodore Porter to the Secretary of the Navy.

SEA GULL, ALLENTON, *Thompson's Island, July 17th,*

SIR: It is with infinite satisfaction I do myself the honour before you Lieutenant Comd't Watson's official report almost total annihilation of the crews of two piratical vess the barges Gallinipper and Musquito, under his command.

When we take into consideration the immense superio force opposed to him, the advantage and preparation on the the pirates, and the result of the action, we cannot but be in ed with the conviction, that nothing less than Providential in and protection could have occasioned consequences so fatal pirates, and so exempt from injury on our side, as to appear miraculous.

The five surviving pirates, being desperately wounded, I in compliment to the favourable disposition and zealous co tion of the authorities of Havana, sent to the Captain Gen Cuba, to be tried by the laws of Spain.

Enclosed is a copy of my letter to him on the subject.

I cannot close this communication, without expressing that the brilliant success of Lieut. Commandant Watson, and cellent character as an officer and man, may induce the Depa to promote him to a higher grade, as the most suitable rewa his services.

I have the honour to be, with great respect, your obedie vant, D. PORT

Hon. SMITH THOMPSON, *Secretary of the Navy.*

(Copy.)

SEA GULL, PORT RODGERS, *August 1st,*

SIR: Application has been made to me by the American to take one million of dollars from La Vera Cruz to Cadiz,

f the same rank as myself, was charged with a force for the
ression of piracy, Admiral Rowley was recalled to England,
we might meet on equal grounds.
ers for co-operation were repeatedly made to me, but, feel-
at the forces under my command were fully adequate to the
t, I declined confining myself to any general plan, leaving it
ther to the accidental meetings of our respective forces, and
cumstances. It affords me pleasure to say, that, whenever
meetings did take place, with a common object in view, they
been attended with the happiest results.
e law making appropriation for the suppression of piracy, li-
the amount to be expended to $160,000; and, in the expen-
, much latitude was given to me by the honourable Secretary
Navy, and the Board of Navy Commissioners. In the ex-
of the trust reposed in me, I have endeavoured to observe
most economy; and, when all shall be deducted which has
charged to the appropriation for this object, and shall be
ed under the proper heads, it will be found that a large unex-
d balance will be remaining in the Treasury.
e improvements of Thompson's Island, transportation of stores
he general service, medicines, hospital stores, &c. &c. &c.
this description; and, when the sale of the vessels purchased
is service, shall take place, and their proceeds be returned
Treasury, the expense of the expedition will be a subject
ly worthy of consideration.
ould the gradual withdrawal of the small vessels take place, I
ave to suggest, that a frigate, in addition to the two sloops of
ow attached to the squadron, is due to the character of our
ce, to the respectability of our flag in that quarter of the
l, and would, by the convenience she would afford to our open
, in the pursuit of pirates, offer the most certain means of
ng them in check.
e moral effect produced by this expedition should not be over-
d. The system of privateering which has prevailed, has,
its looseness, been the cause of many vexations to our com-
. Our presence has occasioned the older Governments to
vessels of this description, and the new Governments of
ica to issue their commissions with more precautions, to guard
t abuse: consequently, our commerce is free from interrup-
and our flag respected throughout those seas.
ave the honour to be, &c. D. PORTER.

SECRETARY OF THE NAVY, *Washington.*

WASHINGTON CITY, *November* 27, 1823.

: Agreeable to your wish, I have perused the letter from
iddle, and fully concur with him in the necessity of affording
tion to our Mexican commerce, and the advantage resulting
the transportation of specie in our ships of war, as the most

days; and from which place I was driven with the squadron, by a pestilence which made its appearance there, carrying off, in a short time, for the want of the necessary medical aid on the station, a great number of valuable officers and men. This circumstance induced me to order the large vessels to Hampton Roads, there to remain for a short time, where medical assistance, if required by them on their arrival, could be obtained. But I am happy to inform you that, with the exception of some intermittents, contracted since their arrival, they are perfectly healthy, as all the small vessels were which were left on the station.

The vessels on the West India station have never been more healthy than they have been this season, the disease with which we have been afflicted being altogether local, and originating in the decomposition of vegetable substances, after the heavy rains, and during the succeeding intense heat of the weather. My experience convinces me that, from the middle of July to the middle of October, the lee side of Thompson's Island is an unfit residence for man; for the rest of the year, no place within the tropics can be more healthy. Those who have resided on the weather side of the Island, have at all times been exempt from the sickness with which those to the leeward have been afflicted. As a place of deposite for our stores, and of repair for our vessels employed on the coast of Cuba, no place can be better adapted; but, while the same cause for disease exists, and they must ever exist, it would not be prudent to make it a permanent station, where many men would be exposed to the baneful influence of the sickly season. As we are now happily situated, with regard to the authorities of Cuba, the inconvenience of an absence of three or four months from Thompson's Island would not be felt, and the excellent and healthy harbour of Matanzas, where we enjoy every facility and convenience from the local authorities, will obviate all the other inconveniences which might otherwise be experienced. The short delay of receiving stores from on board the ships from the Island, and the position they may take outside the harbour, free from the influence of the poisonous vapour which arises from the ponds, would render them secure from its effects. Should it be the design of the Government to keep a force there, I had proposed to myself this arrangement. Under all circumstances, however, it will be proper to have more medical men on the station; and had the necessary number been furnished this year, the squadron would have been, no doubt, in a great measure saved from the deplorable consequences which have resulted, as the disease, in the commencement, was completely under the control of medicine; but, I regret to say, that several perished without receiving any medical aid whatever, and without ever seeing a physician. The whole of the medical men, with scarcely an exception, were, from their great fatigue and exposure, taken down with the disease, and we were left to perish for want of that assistance which we thought ourselves entitled to. I am well aware, however, of the difficulties the Department has laboured under, to make the surgeons do their duty.

The Sea Gull will want coppering, and some other repairs; the rest of the vessels are in general in good order. Several of the officers of the squadron under my orders request leave of absence for a short time, and many applications are daily made to me on points of duty relating to my command. I beg to be informed by you, whether I am to act on these matters as I have done heretofore, or to leave them to the management of the Navy Department.

I shall hold myself, and the vessels, ready to return to the station, so soon as it can be done with safety to those on board. I must entreat of you, however, an additional supply of medical men for the vessels of the squadron, and for the establishment on shore.

I have the honour to be, with great respect, your obedient serv't,

D. PORTER.

Com. ISAAC CHAUNCEY, *Senior member of the Board of Navy Comm'rs, and Acting Sec of the Navy.*

Com. Porter to the Secretary of the Navy.

BALTIMORE, *November 19th*, 1823.

SIR: In conformity with your wishes, verbally expressed to me. I have the honour to submit to you a brief outline of my proceedings in the West Indies, with the squadron under my command, for the suppression of piracy, and for the protection of persons and property, of the citizens of the United States.

In order to take in as large a field for operation as possible, I proceeded with my squadron, consisting of a sloop of war, a steam galliot, a store ship, and nine schooners, to windward, touching at St. Thomas's, showing my forces off the forts of Porto Rico, and although my presence there, was attended with the loss of a gallant young officer, it resulted in the raising of the blockade of the coasts of the Colombian Republic, and gave a check to a system of licensed piracy, which had for a long time previously been practised, from St. John's, and other ports of that island.

From thence, I continued to scour the coasts of the Islands of the West Indies to Cuba, the place of our destination, where we found piracy in full force; but, by the extraordinary activity and vigilance of the officers and men, under my command, it was, in less than two months from our arrival, as completely suppressed, as it is at this moment, or will be for several years.

The actual presence of an active naval force, with a proper understanding with the authorities on shore, being the only means by which the hordes of desperadoes, which have so long infested the almost unknown coasts of this extensive Island, can be completely exterminated, happily, the utmost cordiality, and most perfect co-operation, has existed between the authorities of Cuba, and myself; and, from them, I have received every countenance which could aid me in effecting an object, so interesting to the whole civilized world, and so honourable to the character of our country; and from those under my command, a zeal and activity which have been rare-

ly equalled, and, I will venture to say, have never been surpassed in any Navy, or on any service.

Humanity will deplore the loss of the many gallant spirits which accompanied me, and which shared in this most arduous duty; but she will console herself in the reflection, that the whole world has benefitted by their exertions, and that numbers unknown have, by them, been saved from the knives of the most blood-thirsty monsters that ever disgraced the name of man.

The details of the operations of the forces entrusted to me have, from time to time, been communicated to you. I beg leave, therefore, to refer you to the archives of the office for more minute information. It will, I hope, suffice to say, that, at present, I have no knowledge of the existence of any piratical establishment, vessels, or boats, or of a pirate afloat, in the West Indies and Gulf of Mexico. They have all been burnt, taken, destroyed, and driven to the shore, where the latter have, in most cases, been speedily captured by the local military.

Some severity has been exercised while the battle lasted, but the result has been beneficial, the examples having struck a panic which will, no doubt, long serve to deter others from embarking in similar pursuits.

The fixing an establishment at Thompson's Island for rendezvous and supplies, as my instructions required, has had the most happy effect in attaining the object in view. Its vicinity to Havana, placed, as it were, in the thoroughfare of vessels sailing through the Gulf, makes it, in many points of view, an object of great importance to the United States; and, although for three months in the year it must ever remain sickly, while existing causes continue, it is, from its extraordinary salubrity for the remainder of the year, worthy a closer examination, to ascertain whether they may not be eradicated. It is my opinion, that, by thinning the woods, and draining off the heavy rains of the month of June, thereby promoting a free circulation of air, evaporation and dispersion of the water rendered stagnant by the excessive heat of June, and which causes the rapid decomposition of the vegetable matter with which the Island abounds, the months of August, September, and October, might be made sufficiently healthy for the residence of man; but, at present, the poisonous effluvia arising from these causes, is almost certain destruction to whoever breathes it. Had I been aware of its pernicious effects, I could, without any inconvenience, have guarded against them by an earlier removal of the ships; but it took us by surprize, and the malignity of the disease was unparalleled. It is certain that it originated on the Island, for our ships, with the exception of those sent to work on shore, have, in their crews, enjoyed uncommon health.

In my intercourse with foreign officers, in general, I have received from them every attention, and from none more than those of the British Navy. The Jamaica station had heretofore been commanded by an Admiral; but, when Sir Edward Owens, an offi-

cer of the same rank as myself, was charged with a force for the suppression of piracy, Admiral Rowley was recalled to England, that we might meet on equal grounds.

Offers for co-operation were repeatedly made to me, but, feeling that the forces under my command were fully adequate to the object, I declined confining myself to any general plan, leaving it altogether to the accidental meetings of our respective forces, and to circumstances. It affords me pleasure to say, that, whenever such meetings did take place, with a common object in view, they have been attended with the happiest results.

The law making appropriation for the suppression of piracy, limited the amount to be expended to $160,000; and, in the expenditure, much latitude was given to me by the honourable Secretary of the Navy, and the Board of Navy Commissioners. In the exercise of the trust reposed in me, I have endeavoured to observe the utmost economy; and, when all shall be deducted which has been charged to the appropriation for this object, and shall be charged under the proper heads, it will be found that a large unexpended balance will be remaining in the Treasury.

The improvements of Thompson's Island, transportation of stores for the general service, medicines, hospital stores, &c. &c. &c. are of this description; and, when the sale of the vessels purchased for this service, shall take place, and their proceeds be returned to the Treasury, the expense of the expedition will be a subject scarcely worthy of consideration.

Should the gradual withdrawal of the small vessels take place, I beg leave to suggest, that a frigate, in addition to the two sloops of war now attached to the squadron, is due to the character of our service, to the respectability of our flag in that quarter of the world, and would, by the convenience she would afford to our open boats, in the pursuit of pirates, offer the most certain means of keeping them in check.

The moral effect produced by this expedition should not be overlooked. The system of privateering which has prevailed, has, from its looseness, been the cause of many vexations to our commerce. Our presence has occasioned the older Governments to recal vessels of this description, and the new Governments of America to issue their commissions with more precautions, to guard against abuse: consequently, our commerce is free from interruption, and our flag respected throughout those seas.

I have the honour to be, &c. D. PORTER.

Hon. SECRETARY OF THE NAVY, *Washington.*

WASHINGTON CITY, *November* 27, 1825.

SIR: Agreeable to your wish, I have perused the letter from Mr. Biddle, and fully concur with him in the necessity of affording protection to our Mexican commerce, and the advantage resulting from the transportation of specie in our ships of war, as the most

certain means of taking away the powerful temptation for piratical depredations on merchant vessels.

Since I have had the honour to command on the West India station, I have kept one vessel constantly in the Gulf of Mexico, to give protection to the persons and property of our citizens, and for the transportation of specie to the United States, agreeable to the orders of the Hon. Secretary of the Navy, of the 1st Feb. 1823. Many applications have been made to me to permit cochineal to be embarked with the specie, but I have invariably opposed it, because I had no instructions which would authorize my consenting to the measure; and, however it might have been to my interest, or to the interest of the merchants, I was not willing to give my sanction to what might be liable to abuse, and bring censure on me.

I have gone no further in this respect than my orders required, and the consequence has been that many millions have found their way to England in British men of war that would otherwise have been brought to this country in our own ships, as merchants invariably embark their specie in the same vessel with their cochineal.

Of the propriety of adopting the measure, being a party interested, it might be improper in me to speak. I can only say, that whatever orders I may receive, they shall be punctually obeyed, and whatever course the Department may think proper to take, I shall endeavour by an honest and faithful discharge of the trust reposed in me, to meet its views, and if vigilance can prevent abuses, none shall be practised by any under my command.

I have the honour to be, with great respect, your obedient serv't.

(Signed,) D. PORTER.

Hon. SAM'L L. SOUTHARD, *Secretary of the Navy.*

I certify the above to be a true copy of the original.

CHAS. HAY, *Chief Clerk.*

NAVY DEPARTMENT, 10th *May*, 1825.

WASHINGTON CITY, 29*th November*, 1822.

SIR: I have the honour to state to you that it is in my opinion necessary and proper that the rate and application of freights for carrying specie in our ships of war should be fixed by the Department, as there is no existing regulation on the subject.

The merchant is glad to avail himself of the protection and security thus offered to his property, for which he is willing to pay. It is made the duty of the commander of the ship to give protection and security, and to take on himself responsibilities for which he ought to be paid. It increases the duties and responsibilities of the commander of the squadron, for which he ought to be compensated, and it gives some additional trouble and labour to the officers and crew, for which they ought to receive some benefit.

It has been the custom to divide the freight into three parts, of which one part has been given to the commander of the squadron, and the other two to the Captain of the ship, thereby making the distribution the same as the shares in prize money: but there being no established rule, it depends altogether on the terms the com-

' the squadron and the Captains may be on, whether the ıall continue. For my own part, I have never claimed any t it has invariably been paid to me voluntarily by the cap- n a sense of justice on their part.

ritish regulations established by a proclamation of the d 12th of July, 1819, copy of which I have the honour to you, divides the amount of freight into four parts, one is paid to the commander of the fleet or squadron, two- the commander of the ship carrying the treasure, and e bill of lading or receipt, and one-fourth to Green- pital, for the use of that Institution.

ile embraces every desirable object, and is founded on it gives to the one who has the greatest responsibility, amount of compensation.

ır rule might be adopted to advantage in our service, giv- urth to the Navy Pension Fund, which should be receiv- commander of the squadron, and which he should pay ose appointed to receive it. As regards the rates of car- ght, we have always been governed by those established clamation above alluded to, wherein you will perceive a between the freight of treasures belonging to the crown, se belonging to other parties. In both cases there is onsibility on the officers commanding, who is held answer- e exact amount, and it is proper that he should receive ıity.

adoption of this rule as suggested, I should certainly be er in a pecuniary point of view ; but a strict regard to d a desire to reduce to rule what is now left to chance, ght, under other circumstances, jeopardize the harmony uadron, and occasion disputes, induces me to ask your ructions on the subject.

the honour to be, with great respect, your very obedient

(Signed,) D. PORTER.

retary of the Navy.

y the above to be a true copy from the original.

CHAS. HAY, *Chief Clerk.*

U. S. SHIP JOHN ADAMS, *January* 14, 1824.

ıave the honour to state, for the information of the Board Commissioners, that I shall put to sea with this ship, the and the Sea Gull, on the 17th of this month. The Hor- ll in the hands of the officers of the Yard, and it is when she will be ready. She is in want of one more e, as the one intended for her was sent to the Peacock. ll be sufficient time for one to be made and sent to her e leaves this place.

the honour to be, with great respect, your ob'dt serv't,

(Signed,) D. PORTER.

ROGERS, *President of the Board of Navy Comm'rs, Washington.*

Copy of a letter from Com. David Porter to the Secretary of the Navy, dated
U. S. SHIP JOHN ADAMS, *Norfolk, January 20th*, 1824.

SIR: in reference to your letter of the 15th inst. enclosing one from Mr. Cambreleng, I have the honour to state that I despatched the U. S. schooner Shark, on or about the 1st of this month, to cruise in the neighbourhood of La Vera Cruz, Tampico, and Alvarado, until the 1st of March, for the protection of our commerce in that quarter, and to be relieved at that time by the U. S. brig Spark and schooner Weazel, which vessel sailed two days since, with instructions to scour the West Indies for piratical vessels, said to be out previous to going there.

The Spark will be relieved by the Grampus and another small schooner by the middle of May, and I shall give regular and constant protection to the persons and property of our citizens in the Gulf of Mexico, so long as I am honoured with any present command, unless I receive orders from you to the contrary. I contemplate, by a constant routine, giving equal protection to our colony on the coast of Africa and guarding against the slave trade, provided it meets with your approbation.

I have the honour to be, with great respect, your ob't servant,
D. PORTER.

Hon. SAMUEL L. SOUTHARD, *Secretary of the Navy.*

Copy of a letter from Com. David Porter to the Secretary of the Navy, dated
U. S. SHIP JOHN ADAMS. Off HAVANA, *April 8*, 1824.

SIR: I have the honour to inform you, that, in my route to this place, I have touched at St. Bartholomews, St. Christopher's, St. Thomas's: examined the south Coast of Porto Rico, looking in at the Dead Man's Chest and Ponce, two noted places for Porto Rico privateers; touching at Mona, St. Domingo, Beata, and Kingston, making diligent inquiries and examinations for piratical vessels, and offering convoy and protection to vessels of all nations from piratical aggressions.

In the course of this long route, although we have visited places formerly the rendezvous of pirates, and saw evidences of their having been recently there, we have not been so fortunate as to capture any, nor have we seen any vessels of a suspicious character, until two days since, when we pursued a small schooner which took shelter among the Colorados reefs, and, from every circumstance, there cannot be a doubt that she is a pirate.

I shall, as soon as I can place the vessels now under convoy in safety, hasten to Thompson's Island, to despatch the barges and small vessels in pursuit, and hope, in a few days, to have her in possession.

It appears that an attempt has been made to revive, on the south side of Cuba, that system of piracy which had so long prevailed. The British have lost some men in attempting to suppress it, and the fortunate assemblage of a large British force at the Isle of Pines,

s, I have been informed, caused a dispersion of the gang. Noth- ; but the presence of a strong and active force can keep them in der. I have the honour to be, your obedient servant,

D. PORTER.

To the Hon. SAMUEL L. SOUTHARD, *Secretary of the Navy.*

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opy of a letter from Com. David Porter to the Secretary of the Navy, dated

UNITED STATES' SHIP JOHN ADAMS,

Port Rodgers, Thompson's Island, April 24th, 1824.

SIR: I have the honour to transmit to you a copy of Captain ilkinson's report of the expedition after the piratical schooner. I shall immediately despatch vessels to the coast of Yucatan, in rsuit of the vessel of which he gives information.

I have the honour to be, very respectfully,

D. PORTER.

Hon SAMUEL L. SOUTHARD, *Secretary of the Navy.*

(Copy.)

MATANZAS, *May 3rd,* 1824.

SIR: I regret extremely to learn that a Bill of Exchange of 5000 llars, drawn during my absence, by Mr. T. A. Thornton, Pur- r, in favour of Messrs. Castillo, Black and company, and approv- by Captain Wilkinson, has been returned protested, with seven ndred dollars expenses.

My fortunate arrival with funds, enabled the drawer to take up e Bill, but in consequence of this protest, the credit of Navy lls. which sold for two and a half and five per cent premium, has eatly suffered.

I shall endeavour to do with what funds I have, and can obtain, on y own credit, until I hear that the appropriation has been made r this year. I have the honour to be, your obedient servant,

(Signed,) D. PORTER.

Hon. SAM'L L. SOUTHARD, *Secretary of the Navy, Washington.*

I certify that the above is a true copy of the original on file in e Navy Department. CHAS. HAY, *Chief Clerk.*

May 11th, 1825.

MATANZAS, *May 4th,* 1824.

SIR: I have the honour to inform you that I have sent the Decoy New York for stores, a list of which (copy enclosed) has been rnished to the Commandant of the Navy Yard.

I have also sent the Greyhound to New York to be coppered and paired, as we have not mechanics on the station to do the work quired. I beg leave to observe that a stationary force of five or ship carpenters, ten joiners, four blacksmiths, three boat build- s and twenty black labourers, could be very advantageously em- oyed at Thompson's Island.

Such men cannot be shipped at the rendezvous; they must be t on the same terms as those employed at our Navy Yards.

I beg, therefore, the Commissioners will cause me to be supplied with them. I have the honour to be, your obedient servant,

(Signed,) D. PORTER.

Hon. JOHN RODGERS, *President of the Board of Navy Commissioners.*

(Copy.)

SEA GULL, *Matanzas, May 28th,* 1824.

SIR: I regret to be under the necessity of informing you, that the fever has made its appearance on the island, and that the inability of the acting Surgeon's mate, in charge of the medical department there, to attend to his duty, from sickness, renders his return to the North necessary.

I have sent another to take his place, but this leaves us deplorably off for medical men.

I purpose removing the principal part of the forces to the north about the middle of next month, as the only means of guarding against the consequences of a deficiency of Surgeons.

I have the honour to be, your obedient servant,

(No Signature.)

Hon. SAM'L L. SOUTHARD, *Secretary of the Navy.*

Copy of a letter from Com. David Porter to the Secretary of the Navy, dated

U. S. GALLIOT SEA GULL, *Matanzas, June 1st,* 1824.

SIR: I have the honour to enclose you a copy of a letter from Lieutenant Commandant John H. Lee, who was sent by me in pursuit of the pirate that escaped from the Colorados. I shall not cease the pursuit, until I hear of his capture or destruction.

I have the honour to be, with great respect, your ob'dt servant,

D. PORTER.

HON. SECRETARY *of the Navy.*

WASHINGTON, *June 25th,* 1824.

SIR: I have the honour to inform you, that I arrived here yesterday, in the Sea Gull, from the coast of Cuba, in nine days, and shall be prepared to return to the West Indies so soon as the season will render it safe to do so, and my health, which requires a respite, from the effects of a tropical climate, will admit.

My former communications have apprized you of my intention of removing most of the vessels under my command, to the north, during the sickly season Orders have been given by me, on the subject, and every arrangement made, to give as much protection to our commerce, as the force remaining on the station, will admit.

I have purposed sailing from New York and visiting in my way out, as heretofore, the Windward Islands, so soon as I can get a sufficient force together, and leaving a small detachment in the neighbourhood of St. Thomas, for the protection of our commerce there, where it was asked for by our merchants, when I last visited that place.

The John Adams, it is probable, will require heaving out on her urn, which will be in a week or two, which will leave me with y one sloop of war.

As the health of Captain Wilkinson required his return, I have Lieut. Oellers in command at Thompson's Island, with full in-uctions as to the duties to be performed there; and I have left necessary orders also for the commanders of such vessels as y arrive during my absence.

The island promises to be healthy this season. I have left about ty officers and men there; but I am sorry to say, I had only a rgeon's mate to leave to attend them during the sickly season.

I have, during this season, greatly improved the comfort and con-tion of the island, and thereby lessened that repugnance to re-aining there, which formerly existed among both officers and en.

I shall proceed to New York, in a few days, to hasten the de-atch of the stores, for the squadron and island, which are now reparing there, and which are much required.

If there are any instructions from the Department affecting my rious duties, I shall be happy to be furnished with them, as early as ssible. I have the honour to be, sir, your most obedient servant,

(Signed,) D. PORTER.

n. SAM'L L. SOUTHARD, *Secretary of the Navy.*

(Copy.)

WASHINGTON, *July 14th*, 1824.

SIR: I have the honour to submit to you the accompanying copy a correspondence, on the subject of the sloop Cherub, and the xations to which our commerce is subjected, in the Mexican port Tampico.

I shall, as far as depends on me, endeavour to afford it every pro-tion. I have the honour to be, very respectfully,

(Signed) D. PORTER.

n. SAM'L L. SOUTHARD, *Secretary of the Navy.*

I certify the foregoing to be a true copy of the original on file the Navy Department. CHAS. HAY, *Chief Clerk.*

12th May, 1825.

Pt of a letter from Com. David Porter to the Secretary of the Navy, dated

WASHINGTON, *August* 9, 1824.

SIR: I have the honour to transmit you the enclosed copy and anslation of a correspondence between Lieut. Commandant John itchie and the Commandant of Tampico: and, in reply to your in-tructions of the 20th ultimo, requiring protection to the citizens of he United States engaged in commerce with that port, have to state hat the Shark and two of the small schooners have been sent to he Gulf of Mexico, to afford the protection required.

This, under existing circumstances, is all the force which, at pre-ent, can be sent on that service. The sickly condition of some of

the vessels that have returned to the United States, which has caused them to be placed under quarantine ; the want of repairs in others; the revival of piracy about Cuba and elsewhere, and the reduced state of my squadron, from these and other causes, prevent my affording, with the means at my disposal, as much protection to the citizens of the United States engaged in commercial pursuits within the limits of my command, as I could wish.

I have the honour to be, with great respect, &c.

DAVID PORTER.

Hon. Secretary of the Navy.

Copy of a letter from Com. David Porter to the Secretary of the Navy, dated

Washington, *August* 10, 1824.

Sir : I have the honour to acknowledge the receipt of your letter of the 29th ult. enclosing a copy of a letter from W. Neilson, President of the American Insurance Company of New-York, complaining of the capture of the Mercator, near the port of Matanzas, when some of our vessels of war were stationed there, reflecting on the Government of Cuba for permitting the seizing of " numerous and valuable vessels and cargoes, sailing under our flag," charging it with connivance or imbecility, and justifying the Government for taking decisive measures for the protection of our trade. I have also received your letter enclosing an application from the merchants of Matanzas, for further protection to our commerce in that port, as well as your letter of the 28th July, enclosing a copy of a letter from the master of the brig John, of Newport, recounting the circumstance of the robbery of that vessel near the harbour of Matanzas, asserting that there were no United States vessels on that side of the Island of Cuba, and stating that there had been six captures between Matanzas and Havana. In the various letters accompanying these statements, it is enjoined on me to use my efforts, and make such disposition of the force under my command, as will render piratical aggresions, of this description, less frequent, if it is possible. The whole history of my operations, in conjunction with the authorities of Cuba, against the pirates, renders any defence of my conduct, or the conduct of those under my command, against any imputations of neglect, from any quarter, unnecessary, as it is well known to the Department that we have been devoted to the inglorious service, sacrificing health, comfort, and personal interests, for the sole object of suppressing a system of long continuance, the existence of which was disgraceful to the civilized nations whose citizens and subjects were victims to it, and which the peculiar state of the Government of Cuba, arising from the various changes in Spain, and the numerous facilities to piracy, arising from the nature of the population of the island, and various other causes, originating in the suppression of the slave trade, and progress of the South American revolutions, put it out of the power of the local authorities to suppress, without aid from other quarters, which was no sooner obtained, by our presence, than the most zealous co-opera-

n was commenced on the part of the Government of Cuba, hich has ever since continued, and has changed, entirely, the char- ter of piracy from the bloody and remorseless manner in which it s conducted, to simply plundering of property, and the means from rge cruizing vessels, to open boats. This latter mode of carrying their depredations, renders it extremely difficult to detect them, d is calculated to baffle the efforts of the most vigilant, from the se with which they are enabled to possess themselves of boats ong the Coast of Cuba, the certainty of being enabled to escape the unsettled coasts of the island, and the certainty, for some urs, in the early part of every day, that merchant vessels may be nd, becalmned, near the land.

Nothing but resistance on the part of those who call on us for tection, can put down the present system; and from the small ce employed by them, the mere show of resistance, in a few in- nces, is all that is required. We have seen it stated, that one of vessels robbed was taken possession of by a boat with seven men, plundered, the crew beaten, and confined below. Surely, sir, me should not be attached to us, or to the Government of Cuba, the dastardly conduct of those who, with the most ordinary means lefence, which every merchant vessel affords, could permit such act; as well might this, or any other Government, be charged h imbecility, and its officers with neglect, for not detecting every hway robber, housebreaker, incendiary, or counterfeit. The rge of imbecility must rest on those who fail to defend themselves inst their petty aggressions, and the cause is attributable, almost tirely, to the parsimony of the owners, who fail to furnish a few apons to put into the hands of the crew of vessels destined to ba.

Those robberies are committed most frequently by the persons nployed in loading the vessels, who are well acquainted with their stitution of fire arms at the time of sailing.

I have taken the liberty of enclosing you reports from Lieut. Mc ntosh, the commandant of Thompson's Island, by which you will erceive that every vigilance has been exercised by him in endea- vouring to recapture the vessels taken, and punish the offenders, hat at the very time that Wm. Norris states that no United States' vessels were on the north side of Cuba, the Terrier, Lt. Paine, and Diableta, were cruizing there, and I have also to state, that the Fer- ret, Lt. Farragut, was on that coast and had been, daily, (until a few days previous, employed in giving convoy in and out of the harbour, sometimes with his vessel, and sometimes with his small boats. I have further to state, that the John Adams, Corvette, the brig Spark, the schooner Grampus, the Jackall, Weazel, and the Beagle, have, a short time since the date of Mr. Norris's letter, all visited the coasts and ports of Cuba, zealously employed in the protection of our commerce, in the performance of which duty, I regret to state, hat Lt. Montgomery and Cumming, with several others, have fal- n victims.

The reports of Capt. Dallas, Lieut. Comm'ts Newton, Sloat, Lee, and Zantzinger, and Act. Lt. Farragut, with which you have already been made acquainted, will show the arduous duties they have performed; and the report of Act. Lt. Pinkham, the successor of Lieut. Com't. Montgomery, will show the result of his arduous, useful, and disastrous cruize. There is, at this time, on the Coast of Cuba, and on their way there, the ships Hornet and Decoy, the schooners Shark, Wild Cat, and Terrier, and six Barges; and, in a short time, the force will be augmented by the departure of others of the schooners, large and small. The charge, then, or intimation in any shape, of neglect, on the part of myself or officers, to the interest of the merchants, who have no feeling but for their own pecuniary concerns, is, as you perceive, unfounded. It is true, that, warned by the dreadful mortality of last year, and by approaching disease, I left the West Indies, and ordered home the greater part of the force under my command; and the only cause of regret to me now is, that I did not remove them earlier, by which many valuable lives would have been saved, and that there should be a necessity for their return at this unfavourable season, which will undoubtedly cause the death of more.

I beg you to excuse my going so much into detail, but as the frequent applications to the Department, from the merchants concerned in the Matanzas trade, for protection, might induce the belief of neglect on my part, I have felt that this explanation is necessary.

I cannot conceal to you, however, my mortification at their conduct, after the devotion we have all shown to their *particular* interests, which entitled us to their warmest gratitude.

I have the honour to be, with great respect, your ob't servant,

D. PORTER.

Hon. Sam. L. Southard, *Secretary of the Navy.*

(Copy.) Washington, *Oct.* 13*th*, 1825.

Sir: I have the honour to report to you, the arrival here, of the U. S. Schooner Fox, Lieut. Commandant Ritchie, from the coast of Mexico, via Thompson's Island, and that she brings accounts as late as the 25th of September.

At the time of her leaving the island, no information had been received of the United States schooner Wild Cat, under the temporary command of Midshipman Booth, who left Havana on the 25th August, to proceed to Thompson's Island: there can be no doubt, therefore, from the violent gales experienced, of the loss of this vessel, her officers and crew.

The situation of the island was truly alarming at the date. Four deaths had taken place the day previously, and one the day of the report: the whole number from the 20th to the eight, including one surgeon's mate.

Should no change take place for the better, it only remains the officer in command, to remove from the island (which the confidence I have in his discretion, and the means he

the ships company of any ship or vessel, or the lading thereof, such person shall be adjudged to be a pirate, and the penalty death, on conviction before the Circuit Court of the United States.

The 4th and 5th sections makes it piracy for any citizen of the United States to be engaged in the Slave trade, and the penalty on conviction before the Circuit Court of the United States, death. This act is more extended than the former in its definition of the act of piracy, (but in no part except in continuing in force the former law,) authorizes capture by the armed vessels of the United States. The high and delicate power, therefore vested in the President, by the act of March 3d, 1819, which authorizes and requests him to employ so many of the public armed vessels, as in his judgment the service may require, with suitable instructions to the commanders thereof, in protecting the merchant vessels of the United States and their crews, from piratical aggressions and depredations, has been resorted to and exercised for the purpose of more clearly defining the duties to be performed. The trust reposed in me, is one of a peculiarly delicate character; for while it is made my duty to protect our commerce against all unlawful interruptions, and to guard the rights both of person and property of the citizens of the United States, whenever it shall become necessary; it is enjoined on me not to encroach on the rights of others, and whatever discussion or collision I may have with any foreign power in relation to such rights, I am bound to conduct it with as much moderation and forbearance as is consistent with the honour of my country, and the just claims of its citizens.

The system of piracy, from whatever cause it may have originated, is of considerable extent; and from the population of the Spanish islands, which cannot enforce the authority of the government, establishments have been made by parties of those Banditti in the uninhabited parts, to which they carry their plunder, and retreat in time of danger. It cannot be presumed, that the government of any Island will afford any protection or countenance to such robbers. It may, on the contrary, confidently be believed, that all governments, and particularly those most exposed, will afford all means in their power for their suppression.

Pirates are considered by the laws of nations, the enemies of the human race. It is the duty of all nations to put them down—and none who respect their own character or interest will refuse to do it, much less afford them an asylum and protection.

The nation that makes the greatest exertions to suppress such banditti, has the greatest merit. In making such exertions it has a right to the aid of every other power to the extent of its means, and to the enjoyment under its sanction of all its rights in pursuit of the object. In the case of belligerents, when the army of one party enters the territory of a neutral power, the army of the other has a right to follow it there;—in the case of pirates, the right of the armed force of one power to follow them into the territory of another is more complete.

schooner Beagle, who had visited Faxardo, a town on the east coast of Porto Rico, about two miles from the sea, for the purpose of making enquiries respecting a quantity of dry goods, supposed to have been deposited there by pirates, was, after being recognized as an American officer, by the proper authorities there, imprisoned and shamefully treated.

Indignant at the outrages which have so repeatedly been heaped on us by the authorities of Porto Rico, I proceeded to this place, where I left the ship, and taking with me the schooners Grampus and Beagle, and the boats of the John Adams, with Captain Dallas and part of his officers, seamen, and marines, proceeded to the port of Faxardo, where, finding preparations were making to fire on us from the battery on shore, I sent a party of seamen and marines to spike the guns, which was done in a few minutes, as the Spaniards fled on the landing of the party. I then landed with two hundred men, and marched to the town, spiking on the way the guns of a small battery, placed for the defence of a pass on the road, and reached the town in about thirty minutes after landing. I found them prepared for defence, as they had received information from St. Thomas of my intentions of visiting the place. I halted about pistol shot from their forces, drawn up on the outskirts of the town, and sent in a flag, requiring the Alcalde or Governor, with the Captain of the Port, the principal offenders, to come to me to make atonement for the outrage—giving them one hour to deliberate. They appeared accordingly, and after begging pardon, (in the presence of all the officers,) of the officer who had been insulted, and expressing great penitence, I permitted them to return to the town, on their promising to respect all American officers, who may visit them hereafter. We then returned to the vessels, and left the harbour, after being at anchor three hours.

As we were getting under way, a number of persons appeared on the beach, bearing a white flag, and having with them some bullocks, and a number of horses, apparently laden—no doubt a present from the authorities of the place, which they informed me they should send me.

There is no doubt that our persons and our flag will be more respected hereafter, than it has been by the authorities of Porto Rico.

Every officer and man, on this occasion, conducted themselves in a manner to meet my entire approbation.

I have the honour to be, &c. (Signed) D. PORTER.

Hon. SAM'L L. SOUTHARD, *Secretary of the Navy.*

I certify that the above is a true copy of the original on file in the Navy Department. CHAS. HAY, *Chief Clerk.*

12th May, 1825.

WASHINGTON, *March 8th*, 1825.

SIR: The officers named in the enclosed list will be necessary as witnesses to enable me to repel, in a suitable manner, the foul

charges of Mr. Thomas Randall, and Mr. John Mountain, and the injurious insinuations and assertions on the floor of Congress, against myself and the officers under my command.

Understanding that vessels, having some of them on board, are about sailing, I beg that they may be detained, provided it can be done without injury to the public service.

I have the honour to be, very respectfully, your obed't servant,

(Signed) D. PORTER.

Hon. S. L. SOUTHARD.

NAVY DEPARTMENT, 11*th May*, 1825.

I certify that the above is a correct copy from the original on file in this Department. CHAS. HAY, *Chief Clerk.*

Captains.—Stephen Cassin, A. J. Dallas, Wm. B. Finch, L. Kearney, T. H. Stevens.

Lieutenants.—C. W. Skinner, J. T. Newton, F. H. Gregory, Silas Duncan, J. P. Zantzinger, C. H. Bell, C. Boarman, R. Voorhees, C. K Stribling, D G. Farragut, J. G. Boughan.

Purser.—F. A. Thornton.

General Instructions.

Having been appointed to the command of the squadron, fitted out under an act of Congress of the 20th of December last, to cruise in the West India seas and the Gulf of Mexico, for the purpose of suppressing piracy, and affording effectual protection to the citizens and commerce of the United States; and to the command of all the United States' ships and vessels of war in the West Indies, fitted out for the aforesaid objects, and for the suppression of the Slave Trade, it becomes my duty, (in order that a perfect understanding may be had by those under my command, of the extent of the authorities to be exercised by them in case of separation, or in case of being detached on special service,) to point out briefly to them the conduct to be pursued under particular circumstances, and in doing so, shall confine myself to existing laws, and the instructions of the Honourable Secretary of the Navy; and it is hoped that in no case these orders will be exceeded, without my sanction first being obtained.

First, then, with regard to piracy: On this subject there has been three several acts—that of March 3d, 1819; of May 15th, 1820: and that of the 20th December last, authorizing the additional force of schooners, &c.

The second section of the act of March 3.1, 1819, authorizes "to subdue, seize, take, and send into any port in the United States, any armed vessel or boat, or any vessel or boat, the crew whereof shall be armed, and which shall have *attempted* or *committed* any piratical aggressions, search, restraint, depredation, or seiz-

In regard to pirates, there is no neutral party—they being the enemies of the human race—all nations are parties against them, and may be considered as allies The object and intention of our government, is to respect the feelings as well as the rights of others, both in substance and in form, in all the measures which may be adopted to accomplish the end in view; should, therefore, the crews of any vessel seen engaged in acts of piracy, or which there is just cause to suspect of being of that character, retreat into the ports, harbours, and settled parts of the country for the purpose of aiding the local authorities or people, as the case may be, to seize and bring the offenders to justice, previous notice being given that this is the sole object. When a government exists and is felt, the local authorities must in all instances be respected, and every act must be in aid of, and in co-operation with them ; it being the exclusive purpose of the government of the United States to suppress piracy, an object in which all nations are equally interested, and in the accomplishment of which, the Spanish authorities and people will, it is presumed, cordially co-operate with us.

If in the pursuit of pirates, found at sea, they shall retreat into the unsettled parts of the islands or foreign territory, liberty is given to pursue them, so long only as there is reasonable prospect of being able to apprehend them ; and in no case are we at liberty to pursue and apprehend any one after having been forbidden so to do by competent authority of the local government ; and if on such pursuit any pirates should be apprehended on land, they are to be given over to the proper authorities, to be delt with according to law ; and all the evidence that can be furnished is to be given in proof of the offence alledged against them. Should the local authorities refuse to receive and prosecute such persons, so apprehended, on reasonable evidence being furnished them of their guilt, they are then to be kept safely and securely until information on the subject can be communicated to me.

Great complaints have been made to the government of the interruption and injury to our commerce, by privateers fitted out from Spanish ports ; great discretion is required in giving to our vessels necessary protection against their aggressions, without infringing on the rights of the belligerents. We know not how far they have been authorized and instructed to intercept our trade with Mexico, and the Colombian Republic ; but, according to the well settled rules of the laws of nations, the United States will not consider any portion of the coast upon the Gulf of Mexico, as legally blockaded, except where a naval force is stationed, sufficient to carry into effect the blockading order or decree, and our government does not recognize the right or authority of Spain to interdict or interrupt our commerce with any portion of the coast included within the Colombian Republic or Mexican Government, not actually blockaded by a competent force.

Hence, it is but reasonable to infer, that to arrest our vessels employed in lawful trade, from the fangs of the numerous priv-

mpany of any ship or vessel, or the lading thereof, shall be adjudged to be a pirate, and the penalty death, before the Circuit Court of the United States.

nd 5th sections makes it piracy for any citizen of the s to be engaged in the Slave trade, and the penalty on efore the Circuit Court of the United States, death. more extended than the former in its definition of the , (but in no part except in continuing in force the for- uthorizes capture by the armed vessels of the United e high and delicate power, therefore vested in the Pre- le act of March 3d, 1819, which authorizes and re- o employ so many of the public armed vessels, as in the service may require, with suitable instructions to lers thereof, in protecting the merchant vessels of the s and their crews, from piratical aggressions and de- has been resorted to and exercised for the purpose of y defining the duties to be performed. The trust re- , is one of a peculiarly delicate character; for while ay duty to protect our commerce against all unlawful s, and to guard the rights both of person and property ns of the United States, whenever it shall become ne- is enjoined on me not to encroach on the rights of whatever discussion or collision I may have with any er in relation to such rights, I am bound to conduct it h moderation and forbearance as is consistent with the ay country, and the just claims of its citizens.

m of piracy, from whatever cause it may have originated, arable extent; and from the population of the Spanish ich cannot enforce the authority of the government. nts have been made by parties of those Banditti in the l parts, to which they carry their plunder, and retreat anger. It cannot be presumed, that the government of will afford any protection or countenance to such rob- ay, on the contrary, confidently be believed, that all go- and particularly those most exposed, will afford all eir power for their suppression.

re considered by the laws of nations, the enemies of the . It is the duty of all nations to put them down—and espect their own character or interest will refuse to do s afford them an asylum and protection.

on that makes the greatest exertions to suppress such s the greatest merit. In making such exertions it has a aid of every other power to the extent of its means. njoyment under its sanction of all its rights in pursuit of

In the case of belligerents, when the army of one s the territory of a neutral power, the army of the right to follow it there;—in the case of pirates, the right d force of one power to follow them into the territory is more complete.

will apply with equal propriety to their seizure on board ships on the ocean, and perhaps, if any competent authority should be near at hand, it would be equally proper to deliver them up to it with proofs of their guilt, on a pledge that they shall be brought to trial; but on a refusal to give such pledge, they must be reported to me with as little delay as possible.

The next subject to which attention is to be directed, is the suppression of the slave trade, and it is expected that the utmost vigilance shall be exerted in order that this inhuman practice may be put down. By the act of the 20th of April, 1818, it is made unlawful to import, or bring in any manner whatsoever, into the United States or the territories thereof from any foreign place any person of colour, with intent to hold, sell, or dispose of such person as a slave, or to be held to service.

By this act it is also made unlawful for any citizen of the United States or other person to build, equip, load, fit, or otherwise prepare any ship or vessel in any port or place within the jurisdiction of the United States, or to cause any ship or vessel to sail from any port or place whatsoever within the jurisdiction of the United States, for the purpose of procuring and transporting any such slaves to any port or place whatever; and any ship or vessel employed in such importation of slaves, or so built or fitted out or prepared, is liable to be seized and forfeited.

And by act the 3rd, of March 1819, the President is authorized to employ any of the armed vessels of the United States to cruize in such places as he may think proper, where he may judge attempts may be made to carry on the slave trade by citizens of the United States, or residents thereof, in contravention of the acts of Congress prohibiting the same; and to instruct such armed vessels to seize, take, and bring into any port of the United States, to be proceeded against according to law, all ships or vessels of the United States whatsoever found, or which may be *intended* for the purpose of taking on board or of transporting, or *may* have transported any person of colour in violation of any provisions of the act of the 20th of April, 1818, above referred to, or in violation of any other act or acts prohibiting the traffic in slaves. From the generality of the provisions of the slave acts, authority is given to take and bring into port all vessels of the United States which *may have been* in any manner employed or intended to be employed in the slave trade, or any other vessel *which may be employed in the importation of slaves into the United States.*

It will be observed that the first provision applies only to vessels of the United States, the second applies to vessels of every nation. The rest of the laws go to explain the manner of disposing of the slaves and persons taken in the trade, prescribe the punishment to the offenders, and the bounty to the captors.

It will be sufficient therefore that the capture should be made under the foregoing circumstances, and that reference should be to me for instructions as to the disposal of the vessels, slaves, offenders, and to the laws for a final decision.

ers which have lately been fitted out from Porto Rico, and to subdue, seize, take and send into any port" these depredators our commerce, would be right and proper; but in doing this, eat discretion and prudence must be exercised, and the fact must clearly ascertained, that they come within the provisions of the econd section of the act of March 3rd, 1819.

By recent decisions of our Courts and officers, competent to de-ide, and by the wording of the 5th section of the Act of March rd, 1819 it would appear that piracy may be committed by ves-els legally authorized to cruise and engage in mercantile pursuits, nd that the persons alone committing the act, are responsible for the same. I allude particularly to the Panchitta, sent in by the Grampus, some of the crew of which were imprisoned, to be tried for piracy, and the vessel liberated by decision of the judge; and to the Ninfa Catalina, sent in by the Spark for an act of piracy on a former voyage. The vessel and cargo, immediately on her arrival in the United States, were restored to the owners—part of the crew liberated, and those who committed the act only confined for trial. I might cite other cases to justify the opinion I entertain as to the course proper to be pursued to effect the object of our expedition, with the least possible injury to those not implicated in the crime—but these will suffice.

In the first case cited, the decision of the judge justifies the con-duct of the capturing officer, and in the other case the law would seem equally to authorize her being "subdued, seized, taken, &c. &c." The language of the 5th section of the law above cited, is as follows: "And be it further enacted, that if any *person* whatsoever shall, on the high seas, commit the crime of piracy, as defined by the laws of nations, and such offenders shall afterwards be found and be brought into the United States, any such offender or offen-ders, shall, on conviction thereof before the Circuit Court of the United States, for the district into which he or they may be brought, or in which he or they shall be found, be punished with death."

But it does not appear to me to be necessary, in order to the at-tainment of justice, that the innocent should suffer for the guilty. If the ship is not answerable for the acts of the crew, there can be no necessity or propriety in sending in the ship for adjudication; because by so doing, injury is brought on the owners, the innocent party, and to us they look for indemnity, who have no other appeal than to the liberality of our country.

But piracy must be punished, and we are bound by the 2d sec-tion of the Act of March 3d, 1819, to "subdue, seize, and take" all vessels which commit it, and after we have done so, and it is found that the vessels committing the act, is a legally authorized cruiser, the most that it would seem proper to do on the occasion, would be, to take from on board her the persons committing the act, and send them to the United States for trial.

For the same principle that would justify their capture on land,

will apply with equal propriety to their seizure on board ships on the ocean, and perhaps, if any competent authority should be near at hand, it would be equally proper to deliver them up to it with proofs of their guilt, on a pledge that they shall be brought to trial; but on a refusal to give such pledge, they must be reported to me with as little delay as possible.

The next subject to which attention is to be directed, is the suppression of the slave trade, and it is expected that the utmost vigilance shall be exerted in order that this inhuman practice may be put down. By the act of the 20th of April, 1818, it is made unlawful to import, or bring in any manner whatsoever, into the United States or the territories thereof from any foreign place any person of colour, with intent to hold, sell, or dispose of such person as a slave, or to be held to service.

By this act it is also made unlawful for any citizen of the United States or other person to build, equip, load, fit, or otherwise prepare any ship or vessel in any port or place within the jurisdiction of the United States, or to cause any ship or vessel to sail from any port or place whatsoever within the jurisdiction of the United States, for the purpose of procuring and transporting any such slaves to any port or place whatever; and any ship or vessel employed in such importation of slaves, or so built or fitted out or prepared, is liable to be seized and forfeited.

And by act the 3rd, of March 1819, the President is authorized to employ any of the armed vessels of the United States to cruize in such places as he may think proper, where he may judge attempts may be made to carry on the slave trade by citizens of the United States, or residents thereof, in contravention of the acts of Congress prohibiting the same; and to instruct such armed vessels to seize, take, and bring into any port of the United States, to be proceeded against according to law, all ships or vessels of the United States whatsoever found, or which may be *intended* for the purpose of taking on board or of transporting, or *may* have transported any person of colour in violation of any provisions of the act of the 20th of April, 1818, above referred to, or in violation of any other act or acts prohibiting the traffic in slaves. From the generality of the provisions of the slave acts, authority is given to take and bring into port all vessels of the United States which *may have been in any* manner employed or intended to be employed in the slave trade, or any other vessel *which may be employed in the importation of slaves into the United States.*

It will be observed that the first provision applies only to vessels of the United States, the second applies to vessels of every nation. The rest of the laws go to explain the manner of disposing of the slaves and persons taken in the trade, prescribe the punishment to the offenders, and the bounty to the captors.

It will be sufficient therefore that the capture should be made under the foregoing circumstances, and that reference should be had to me for instructions as to the disposal of the vessels, slaves, and offenders, and to the laws for a final decision.

here is one thing that must be particularly observed; it is not
considered in these general instructions for the suppression of
lave trade, that authority is given at any place out of the waters
ie United States to search, capture, or in any manner whatever
iterrupt vessels under any other than the American Flag.
s regards the recapture of vessels which may be found in the
ls of pirates, and not belonging to the United States; although
s are no laws which authorize our rescuing them from the fangs
ose monsters; and, although the President has given no positive
ctions on this head; still, as humanity obviously calls on us to
cise the power, having the means in our hands, as it is a duty
ed by instructions subsequently given me, by the measures ad-
l for the suppression of piracy, and as it is enjoined on me by
iovernment to harmonize and co-operate with the forces of any
r power engaged in the same pursuit with ourselves, thereby
ring a common interest, I will take on myself to supply the
sion, (as it certainly is one) by authorizing the act whenever
y become necessary.
l vessels therefore of any nation whatever, found in the posses-
of pirates, may be taken from them as though they belonged to
Jnited States, and as though their recapture was provided for
ie laws for the suppression of piracy, and by the most positive
uctions of the Government.
iese instructions, although swelled to an unusual length, are ren-
d as concise as the subject would admit of to enable me to in-
you fully as to the views of the Government.
'e have a very delicate duty to perform, and with full confidence
ie discretion of those I have the honour to command, I hope it
be fulfilled to the entire satisfaction of our country, to our own
our, and to the honour and general interest of the Navy.
time of actual warfare between nations, there can be no difficulty
scriminating between right and wrong, but the service on which
re engaged, requires the exercise of our soundest judgment;
n proportion to the difficulty of discriminating will be the merit
ing what is proper.
ie eyes of the world are on us, and while we must not fail in
gy, we must not want in circumspection.

(Signed,) D. PORTER.

S. Ship Peacock, *February 26th*, 1823.

(Circular.)

im directed by the honourable Secretary of the Navy, to assure
fficers and men of the squadron I have the honour to command,
e consideration in which their services, on their recent expedi-
against the pirates of the West Indies are held, and the high
e entertained of their devotion to a most arduous and dangerous
ice, wherein a vigour has been displayed, which has effectually
ted the depredations of the freebooters, afforded security to

Special Instructions to different Officers, and their Reports.

U. S. Ship Peacock, *Thompson's Island, April 5, 1822.*

Sir: You will proceed with the schooners the Fox and the Jackall, and the two cutters Gallinipper and Musquito, to examine the coast of Cuba, from Havana down to Cape Antonio, in the neighbourhood of which place I expect soon to join you.

You will please to govern yourself by my general instructions, as to the course to be pursued in the pursuit of pirates.

Wishing you a pleasant and successful cruise, I am, with sincere respect, your obedient servant,

D. PORTER.

(Signed)

Captain Stephen Cassin.

Captain Cassin to Commodore Porter.

U. S. Schooner Fox, *Off the Havana, April 9th, 1822.*

Sir: Agreeable to your orders of the 5th inst. I proceeded with the schooners Fox and Jackall, and the barges Gallinipper and Musquito, off this harbour, and despatched Lieut. Comdt. Stephens, in his small boat, into the port. On his approaching the Moro, he was ordered by the guard to return, as his boat would not be permitted to enter, but that his schooner might. As it was important that we should communicate with the Consul, I ordered the Jackall into the harbour for that purpose. She was suffered to pass; and returning, brought an urgent request from Mr. Warner, and the entreaty of numerous merchants and ship masters, to afford convoy to eight or ten American vessels, then ready to sail, they having been waiting a convoy a considerable time:—such was the alarm created by piratical depredations, many atrocious acts having been committed in the very mouth of the harbour, and one only evening before our arrival, by the noted schooner Pilot. Captain Stephens also informed me, that this pirate was then supposed to be in Escondido, or hidden harbour. Under these circumstances I thought myself justifiable in giving convoy, and sent Captain Stevens in to make known to vessels of all nations that I would afford them protection as far as the Gulf, and proceed with them myself light on the 7th.

On a belief of finding the pirates, I despatched Lieut. Stribling in the Gallinipper, accompanied by the Musquito, Lieut. Kelly. The Fox, at 7 o'clock in the evening, to Escondido. On the morning of the 8th, I fell in with the Wild Cat and Beagle, who had just run off their cruising ground in chase of the pirates, but lost sight of them during the night. As it would not be detaining the vessels more than a few hours, I determined to keep them under convoy until well off from the land, and run in myself with the Jackall and pick up the barges. At 6 o'clock on the 8th, I

Circular to Commanders.

The Secretary of the Navy has been instructed by the President to inform me, that it is his wish, that I should not attempt to break any blockade, sustained by force; but, when I am prevented from entering a blockaded place, to immediately make report thereof, with the circumstances attending it, to the Navy Department. He has also been instructed to urge upon me the cultivation of the best personal and national feelings in my intercourse with all the officers of other nations, with whom I may meet, and to enjoin the same upon those under my command.

With these wishes and injunctions, you will please to comply, making, if necessary, reports to me, for the information of the Secretary of the Navy.

Very respectfully, your obedient servant,

(Signed) D. PORTER.

WASHINGTON, *July, 15th*, 1824.

WASHINGTON, *August 16th*, 1824.

(Circular.)

SIR: Application has frequently been made to the Navy Department, by individuals, to give convoy to belligerent ports; and, on considering the subject, it has been deemed advisable, not to confine our protection to particular cases, on the applications of individuals, but to make it of a general principle, and given to all alike. This is necessary, to guard against any infringement of the rights of belligerents, as regards blockades, and contraband of war; the first of which is in no case to be violated, and the second is never to be protected. Upon these principles, our public ships should never give convoy to our merchant vessels to the ports of either of the belligerents, without a perfect knowledge that they had no contraband articles on board, nor are they ever to be protected against a blockading force, when warned off.

You will, therefore, take under your protection such vessels as may offer for convoy on your route, governing yourself by the foregoing general principles, and the orders and instructions heretofore given.

Very respectfully, your obedient servant,

(Signed) D. PORTER.

To the Commanders of the Squadron.

Extract from a General Order, dated

NORFOLK, *November 8th*, 1823.

All the ships and vessels of the squadron, under my command, now at Norfolk, are to be removed to Washington, with all possible despatch, where their repairs, equipments, and supplies, are to be completed, with as little loss of time as possible.

(Signed) D. PORTER.

NORFOLK, *8th November*, 1823.

Special Instructions to different Officers, and their Reports.

U. S. Ship Peacock, *Thompson's Island, April* 5, 1822.

Sir: You will proceed with the schooners the Fox and the Jackall, and the two cutters Gallinipper and Musquito, to examine the coast of Cuba, from Havana down to Cape Antonio, in the neighbourhood of which place I expect soon to join you.

You will please to govern yourself by my general instructions, as to the course to be pursued in the pursuit of pirates.

Wishing you a pleasant and successful cruise, I am, with sincere respect, your obedient servant,

(Signed) D. PORTER.

Captain Stephen Cassin.

Captain Cassin to Commodore Porter.

U. S. Schooner Fox, *Off the Havana, April 9th*, 1822.

Sir: Agreeable to your orders of the 5th inst. I proceeded with the schooners Fox and Jackall, and the barges Gallinipper and Musquito, off this harbour, and despatched Lieut. Comdt. Stephens, in his small boat, into the port. On his approaching the Moro, he was ordered by the guard to return, as his boat would not be permitted to enter, but that his schooner might. As it was important that we should communicate with the Consul, I ordered the Jackall into the harbour for that purpose. She was suffered to pass; and returning, brought an urgent request from Mr. Warner, and the entreaty of numerous merchants and ship masters, to afford convoy to eight or ten American vessels, then ready to sail, they having been waiting a convoy a considerable time:—such was the alarm created by piratical depredations, many atrocious acts having been committed in the very mouth of the harbour, and one only the evening before our arrival, by the noted schooner Pilot. Captain Stephens also informed me, that this pirate was then supposed to be in Escondido, or hidden harbour. Under these circumstances, I thought myself justifiable in giving convoy, and sent Captain Stevens in to make known to vessels of all nations that I would afford them protection as far as the Gulf, and proceed with them at daylight on the 7th.

On a belief of finding the pirates, I despatched Lieut. Stribling in the Gallinipper, accompanied by the Musquito, Lieut. Kelly, of the Fox, at 7 o'clock in the evening, to Escondido. On the morning of the 8th, I fell in with the Wild Cat and Beagle, who had been run off their cruising ground in chase of the pirates, but lost sight of them during the night. As it would not be detaining those vessels more than a few hours, I determined to keep them with the convoy until well off from the land, and run in myself with the Jackall and pick up the barges. At 6 o'clock on the 8th, I received

termination of the cruise, I tender to Lieuts. Comdt. Stevens and Vallette, Lieut. Stribling, and their officers, my sincere thanks.

I have the honour to be, very respectfully, &c.

S. CASSIN.

Com. DAVID PORTER, *Comm'g U. S. Naval Forces in the W. Indies.*

U. S. GALLIOT SEA GULL, *Allenton, May 7*, 1823.

SIR: You will proceed with the United States ship Peacock to Havana, and there complete your provisions for three months.

You will then proceed to La Vera Cruz, for the protection of our commerce in that quarter and about Tampico, where you will take on board specie on the usual freight to be transported to the United States; and when you have completed your cargo, or got all you can, you will leave there, touching at this place for further orders.

Very respectfully, your obedient servant,

(Signed) D. PORTER.

Captain S. CASSIN.

SEA GULL, *May* 11, 1823.

SIR: On your arrival at La Vera Cruz, you will please to correspond with Mr. John Mason, who is now in Mexico, on the subject of the transportation of specie, and act understandingly with him; mooring between La Vera Cruz and Tampico, as circumstances may make necessary, and touching at such by ports as you may think proper, in order to facilitate the taking on board money.

Wishing you a pleasant and profitable cruise, I am, with respect and esteem, your obedient servant,

(Signed) D. PORTER.

Capt. S. CASSIN.

SEA GULL, *Port Rodgers, August* 20, 1823.

SIR: I shall leave this place to-morrow morning, to look at a doubtful establishment on the continent, and shall be absent about a week, and leave you in charge of the establishment here.

I will thank you to give every aid and facility in the finishing the boat shed, and completing the repairs and equipments of the barges.

I have left all the carpenters that could be mustered. If you have any that can be spared from your ship, or any tools, such as are wanting, I will thank you to supply them, as I am very anxious to have the boats ready by the return of the Fox from the coast of Yucatan. Should the John Adams arrive, you will call on her commander to furnish all the aid in his power in effecting these objects.

All United States' vessels which may arrive during my absence are to await my return.

Very respectfully, your obedient servant,

(Signed) D. PORTER.

Capt. S. CASSIN.

and I took possession, with an intention to destroy her, as she was rotten, and an encumbrance to us.

At 10, A. M. on the same day, we anchored in a noted harbour for pirates, intending to examine it thoroughly. Our anchor was scarcely gone, before a felucca was discovered standing out for the Gallinipper, who was ahead, sounding. On opening our vessels, she immediately hauled down her sails, and pulled around the point of an Island. The barges were ordered in chase, accompanied by all the boats we could muster. On their getting to where the felucca had disappeared, several houses were discovered, and a number of men busily employed carrying things from them, and, at the moment, were supposed to be fishermen. It was some time before the felucca was discovered, and, when found, was dismantled and covered with bushes, hastily thrown over.

When the pirates, (which they proved to be) found she was discovered, they fired a volley of musketry at our boats, which fortunately proved harmless. The officers and crews immediately landed, and pursued them through the bushes, when a running fight of more than half a mile took place, the pirates frequently turning, for a moment, and firing, which was returned occasionally, but without effect, from the eagerness with which they were pursued. So closely were they pressed, that they threw off shoes, clothes, and other incumbrances; but, from the thickness of the bushes, and knowledge of their path, all made their escape. Their establishment, which consisted of five houses, was set on fire, and the felucca brought off. She is a fine boat, coppered, pulls sixteen sweeps, and is, in every respect, equal to any of our barges. She appears to have been recently fitted, and, I presume, was on the eve of making her first cruise. The old boat, which was taken in the morning, I gave to a fisherman, who was serviceable to us as a pilot, she being an incumbrance.

On the 17th, we proceeded, examining all places very minutely; and, from the intricacy of the navigation, did not arrive at Cape St. Anthony until the 21st. From the moment we passed within the reef, until getting to the Cape, we were obliged to keep the barges ahead, sounding. The vessels were all trimmed by the head, and every precaution taken, yet we frequently grounded. Many places, for several miles, we found only seven feet water, and frequently less than six, when we were obliged to run out anchors, and heave through the mud. I learnt on the passage, from the fishermen, that the English attempted the same, but succeeded only part of the way. I also found the British sloop Scout cruising off the Cape, from the commander of which we learnt they had numbers cruising in that quarter, and on the south side.

The passage within the Colorados, from beginning to end, I found extremely intricate; but I am much gratified by knowing we are the first who accomplished it. We suffered much for water, and the small quantity we were enabled to obtain, was such as I apprehended would create disease amongst us. And, for the success i

termination of the cruise, I tender to Lieuts. Comdt. Stevens and Vallette, Lieut. Stribling, and their officers, my sincere thanks.

I have the honour to be, very respectfully, &c.

S. CASSIN.

Com. DAVID PORTER, *Comm'g U. S. Naval Forces in the W. Indies.*

U. S. GALLIOT SEA GULL, *Allenton, May 7*, 1823.

SIR: You will proceed with the United States ship Peacock to Havana, and there complete your provisions for three months.

You will then proceed to La Vera Cruz, for the protection of our commerce in that quarter and about Tampico, where you will take on board specie on the usual freight to be transported to the United States; and when you have completed your cargo, or got all you can, you will leave there, touching at this place for further orders.

Very respectfully, your obedient servant,

(Signed) D. PORTER.

Captain S. CASSIN.

SEA GULL, *May* 11, 1823.

SIR: On your arrival at La Vera Cruz, you will please to correspond with Mr. John Mason, who is now in Mexico, on the subject of the transportation of specie, and act understandingly with him; mooring between La Vera Cruz and Tampico, as circumstances may make necessary, and touching at such by ports as you may think proper, in order to facilitate the taking on board money.

Wishing you a pleasant and profitable cruise, I am, with respect and esteem, your obedient servant,

(Signed) D. PORTER.

Capt. S. CASSIN.

SEA GULL, *Port Rodgers, August* 20, 1823.

SIR: I shall leave this place to-morrow morning, to look at a doubtful establishment on the continent, and shall be absent about a week, and leave you in charge of the establishment here.

I will thank you to give every aid and facility in the finishing the boat shed, and completing the repairs and equipments of the barges.

I have left all the carpenters that could be mustered. If you have any that can be spared from your ship, or any tools, such as are wanting, I will thank you to supply them, as I am very anxious to have the boats ready by the return of the Fox from the coast of Yucatan. Should the John Adams arrive, you will call on her commander to furnish all the aid in his power in effecting these objects.

All United States' vessels which may arrive during my absence are to await my return.

Very respectfully, your obedient servant,

(Signed) D. PORTER.

Capt. S. CASSIN.

PORT RODGERS, *Thompson's Island, September* 12*th*, 1823.

SIR: You will proceed with the United States ship Peacock, under your command, to cruise in the Gulf of Mexico, for the protection of our commerce and the transportation of specie. You will be governed in these respects by your former instructions.—You will touch at Cuba for such supplies as cannot be procured here; and on your way down you will examine the Coast from Cape Cartouch to Campeachy.

You will limit your stay between La Vera Cruz and Tampico to six weeks, and on your return to this place, not finding me here, you will proceed to Norfolk, reporting your arrival to me at Washington. Very respectfully, your obedient servant,

D. PORTER.

Capt. STEPHEN CASSIN, *U. S. Ship Peacock.*

PORT RODGERS, *Thompson's Island, September* 13*th*, 1823.

SIR: Instead of acting agreeable to my instructions of yesterday, you will proceed, accompanied by the John Adams, to Hampton Roads, as the rapid progress of the malignant fever in the squadron, for which we have not sufficient medical aid, requires that the ships should proceed where it can be obtained

On your passage, keep company for mutual assistance.

Very respectfully, your obedient servant,

D. PORTER.

Capt. STEPHEN CASSIN, *U. S. Ship Peacock.*

UNITED STATES' SHIP JOHN ADAMS, *Norfolk, January* 20*th*, 1824.

SIR: You will proceed with the United States' ship Hornet under your command, to the coast of Africa, continuing along the course in the usual track of Slave trading vessels, in pursuance of the general cruizing instructions, and the acts of Congress for the suppression of the Slave trade and capture of piratical vessels;—copies of the laws relative thereto you have enclosed

While on the coast, you will touch at the American settlement of free coloured people;—communicate with the agent of the American Colonization Society—ascertain the state and condition of the colony, giving it such aid, assistance, and protection, as it may stand in need of, and be in your power to furnish.

From thence you will proceed towards the coast of Guinea, and thence in the route usually traversed by vessels with slaves, which is mostly north of the Artelles and the Keys to Cuba.

You will, in your route, touch occasionally at some of the islands of the West Indies, to obtain news of piratical vessels You will proceed to Matanzas—fill your water and repair to Thompson's Island, where you will receive my further orders.

Wishing you a pleasant and successful cruize—I am, with great respect, your obedient servant,

(Signed) D. PORTER.

Capt. S. CASSIN, *U. S. ship Hornet.*

SEA GULL, ALLENTON, *June 19th*, 1823.

SIR: Having heard by the Jackall of the arrival of the Hornet at Havana, I have to require you to proceed to this place with as little loss of time as possible, as the services of your ship are much wanted here.

It is greatly to be regretted that you made any stay at Havana at this season, and I shall deem it particularly fortunate if your crew escape the malignant fever which has already been brought over to us in the store ship, and by which two persons who contracted it in Havana have died on the Island.

You will be careful in keeping your ship well ventilated and fumigated, not to allow water to be let into the hold, or your men to be unnecessarily exposed; and should disease appear, hasten to separate those affected from the well part of the crew.

I shall feel much anxiety until the period arrives when all apprehensions should cease, and hope no efforts will be wanting to get as early as possible beyond the baneful influence of the climate of the port.

With great respect, your obedient servant,

(Signed) D. PORTER,

Commanding U. S. Naval forces in the West Indies and Gulf of Mexico.

Capt. S. SMITH, *ship Hornet.*

UNITED STATES' SHIP JOHN ADAMS, *Thompson's Island, Dec. 15th*, 1824.

SIR: You will please send me a report of your proceedings, from the time of your executing the orders of the Navy Department, up to the time you receive this, with a statement of the actual employment of the vessels on the station.

If the marines which were ordered to come out in the vessel with coal have arrived at Matanzas, you will send them over in the *Terrier*, whose commander has been ordered by me to return, after touching at Havana.

I have directed the commander of the Porpoise to repair here with his vessel;—you will continue on the service you are now engaged, with the remainder of the forces, until you receive further instructions.

Very respectfully, your obedient servant,

(Signed) D. PORTER.

Capt. KENNEDY.

SEA GULL, *Port Rodgers, July 31st*, 1823.

SIR: You will proceed to Havana with the United States ship Hornet under your command, and there obtain a supply of provisions and water.

You will be careful of the health of your officers and men, suffering as little exposure to the weather, and communication with the shore, as possible, hiring boats and crews to bring off your provisions and water, and laying at Havana not one hour longer than is necessary to complete the object of your visit there.

If you should find there, or in that neighbourhood, the schooner Fox, Lieutenant commandant Ritchie, you will take her under your command, and proceed with her in company, to a piratical establishment, said to exist at a place called New Malaga, near Cape Cartooche; and ascertain, as near as possible, its state and the force necessary to subdue it, which information you will communicate to me by the Fox, to be despatched with it to this place. It is said that a British expedition has gone against it.

You will endeavour to ascertain how far they have made efforts to put it down, and their success.

You will from thence proceed along the coast, touching at Campeachy for information respecting the aforesaid piratical establishment, and the state of piracy on the coast; and affording at the same time all the protection in your power to our commerce.

From Campeachy you will proceed to La Vera Cruz, and in that neighbourhood, as well as Campeachy, continue to give protection to our commerce; and if merchants wish you to give convoy to their specie to the United States, you can afford it at the usual rate of freight.

The freight allowed at present from Havana, is 2½ per cent. and this is not more than sufficient to indemnify those concerned in the risk, responsibility, and trouble of the transportation. I leave it, however, to yourself to make the best arrangement you can with the merchants, assuring them of prompt delivery, and that they may calculate on a certainty of the means of transportation being constantly afforded them.

You will write to me by every opportunity from La Vera Cruz, directing your letter to the care of Messrs Castillo, Black, & Co. and should you not meet the Fox, you will take the earliest opportunity of informing me by some other conveyance, of the result of your observations at New Malaga.

It is to be presumed that a stay on the coast of one month, will be sufficient to enable you to make up a freight. Should you find it necessary however, you can remain there six weeks, when you will return to this place for further orders.

Spare no pains whatever in endeavouring to preserve the health of those under your command, allowing of as little exposure to the sun as possible, and at night.

With great respect, your obedient servant,

(Signed) D. PORTER.

Capt. S. SMITH, *Ship Hornet.*

MATANZAS, *May 2nd*, 1824.

SIR: You will proceed to Havana with the United States ship John Adams—there fill your water and proceed to the Gulf of Mexico, touching at Campeachy, Alverado, La Vera Cruze, and Tampico, for the purpose of affording protection to the persons and property of our citizens, and for the transportation of their

specie. At one of these places you will find the United States schooner Jackall, Lieutenant Commandant John H. Lee, whom you will instruct to aid you in the duties assigned you, and when his services are no longer necessary to you, you will direct him to take in the specie of our citizens, to New Orleans, Havana, or any part of the United States as may be in your opinion most advantageous to our commercial interests. Should he go to New Orleans or Havana, he is afterwards to proceed to Thompson's Island, and should he be sent to the United States, he is to touch there for orders from me; he is to be governed in all cases by the rules prescribed to you in regard to the transportation of specie, and his intercourse with foreign officers.

When you have completed your freight, which I presume may be done in one month or less, you will touch at Havana and this place for further orders.

I have read to you the instructions of the honourable Secretary of the Navy, relative to the transportation of treasures.

I have no apprehensions that you will go beyond the authority given—it is therefore needless to make any further communication to you on the subject. I will merely remark, however, that none of the vessels of war under my command must, on any account whatever, and under any inducement, be used for the purposes of commercial adventure. You can carry the treasures of our citizens from one port or place to another, and you can take it to the United States; but nothing in the shape of public advertisements must appear—and in all your intercourse with the authorities of the places you may visit, make frank acknowledgments of the motives that brought you there. Let all your transactions in this respect be open, and not liable to misapprehensions—nothing whatever in the shape of clandestine shipments must be countenanced. Wishing you a pleasant and successful cruize,

I am, with respect, your obedient servant,

(Signed) D. PORTER.

Capt. A. J. Dallas, *U. S. ship John Adams.*

U. S. Ship John Adams, *off Matanzas, 16th July,* 1824.

My dear sir: I have this moment received your orders for New York, all the money on board, amounting to seventy or eighty thousand dollars, is for Philadelphia, and as I have signed bills of lading to that port, I am confident you will not think I do any thing improper when I go there.

Should you direct that I proceed from thence to New York, the ship will be ready the moment after the delivery of the money.

Very sincerely and respectfully, your most obedient servant,

A. J. DALLAS.

Comm'o David Porter, *Commanding West India Squadron, &c. &c. &c.*

WASHINGTON, *August* 11*th*, 1824.

SIR: As soon as the United States ship John Adams shall be ready for sea in every respect, you will proceed to the West Indies to give protection and convoy to our commerce, governing yourself in every respect by the general cruising instructions and the orders heretofore given.

You will make the islands as far to windward as St. Barts, touching at that place and St. Thomas, and examining all suspicious places to the south coast of Cuba. You will there touch at St. Jago and Trinidad, and proceed from thence to the Gulf of Mexico, where you will cruise until a renewal of your supplies shall make your return necessary, when you will touch at Havana and Thompson's Island, to receive them and further orders.

Should you consider supplies necessary before going to the Gulf, you can touch at Thompson's Island for them.

Should transportation of specie offer, you can take it on board under the restrictions laid down.

The difficulties which have recently occurred at Tampico with the commandant at that place, will make your occasional presence there, indispensably necessary. Govern yourself in your intercourse with him with the utmost caution and prudence, avoiding, if possible, every thing which may be likely to produce bad feelings.

You will, by every safe conveyance, make reports to me at Thompson's Island, of your proceedings. Wishing you a pleasant cruise, your very obedient servant,

(Signed,) D. PORTER.

Capt. A. J. DALLAS.

WASHINGTON, *Oct.* 2*nd*, 1824.

SIR: Having received orders from the Hon. Secretary of the Navy, to proceed as speedily as possible, to Thompson's Island, in your ship, you will drop down to New Castle, ready to receive me on board, and be prepared to sail on the shortest notice.

Very respectfully, your obedient servant,

(Signed,) DAVID PORTER.

Capt. A. J. DALLAS.

THOMPSON'S ISLAND, *April* 12*th*, 1824.

SIR: With the Steam Galliot Sea Gull and four barges, you will proceed to give a thorough examination to the coast inside the Isabella and Colorado reef, in search of pirates.

With three of the barges, you will enter the passage at the east end, near Cayo Blanco, progressing westward, and you will send the Sea Gull and one of the barges, to enter near Cape Antonio, to progress to the eastward. I shall order the Grey Hound to proceed to Cape Antonio with a supply of provisions, there to await your arrival, and to receive your further instructions.

After you have executed these instructions, you will return to this place, and make to me a report of your proceedings.

Wishing you a pleasant and successful cruise,—I am, with great respect, your obedient servant,

(Signed,) D. PORTER.

Capt. JESSE WILKINSON.

Copy of a letter from Capt. J. Wilkinson to Commodore David Porter, Commander in chief of the United States naval forces in the West Indies, Gulf of Mexico, and on the coast of Africa, communicated to the Secretary of the Navy, dated,

UNITED STATES' STEAM GALLIOT SEA GULL, *24th April*, 1824.

SIR: I have the honour to report to you my return with the Steam Galliot Sea Gull, and four barges, having given a thorough examination of the coast of Cuba, inside the Isabella and Colorados, keep in search of pirates, agreeable to your orders of the 12th inst.

The Sea Gull and one barge entered at Cape Antonio, and progressed Eastward, and with three barges, I commenced at the river Ortigosa and progressed westward, examining minutely every part of the coast until I met the Sea Gull with the whole of the forces.

I then proceeded to the spot designated by you for the anchorage of the Greyhound, where I arrived on the 20th instant, took in a supply of water and provisions, and sailed the same evening for Thompson's Island, with the Greyhound and Fox in company. I despatched the Greyhound for Havana. It being calm at 7 o'clock yesterday morning, made signal for the Sea Gull to take the barges in tow, and also for the Fox to make the best of her way to Thompson's Island.

I ascertained, from several concurrent statements, that the celebrated pirate Diableto, sailed from Cape Antonio about ten days previous to our arrival there, his destination unknown, but supposed to be for the coast of Yucatan, from the course he steered off, to increase his armament, having at that time but eight men, and nothing but small arms. The schooner he commanded he had captured but a short time before on the Coast of Cuba.

I have the honour to be, sir, your obedient servant,

J. WILKINSON.

Com. DAVID PORTER, *Commander in Chief of the United States' Naval forces in the West Indies, Gulf of Mexico, and on the Coast of Africa.*

U. S. SHIP PEACOCK, *March* 11, 1823.

SIR: You will proceed down the south sides of St. Domingo and Cuba to Thompson's Island, with the ships under your command, accompanied by the United States' schooner Jackall.

Very respectfully, your ob't ser'vt,

(Signed,) D. PORTER.

Lieut. Com. L. KEARNEY.

U. S. SHIP PEACOCK, *Allenton, April* 11, 1823.

SIR: So soon as the provisions of the Grey Hound and Weazel

can be taken on board, you will proceed with them to Havana, and give convoy every Saturday morning, as far as the Double Headed Shot Keys.

A convoy sails with the Wild Cat and Beagle every Sunday morning, from Matanzas, and you will join them You will have frequent opportunities of communicating with Lieut. Com. Skinner, and obtaining information of affairs to the windward of Matanzas, in the neighbourhood of the Keys, about Point Yeacos, and which you will direct him to examine if practicable. Every week you will do the same with the Coast between Matanzas and Havana, (on your return from convoy,) where there are several places that have been much the resort of pirates, particularly Bays Escondido and Jaruca.

If at any time you feel disposed to change stations with Lieut. Com. Skinner, you can do so, directing him to perform, with two of the vessels, the duties assigned to you.

I would recommend your going as little into Havana as possible, on account of the health of yourself and your officers and crew. Some of the small Bays will no doubt supply you with water and shelter, while you are not cruising.

It will soon become necessary to careen the vessels, and get them in order. This can be done either at Matanzas or here, and probably at present more conveniently at Matanzas. You will please therefore supply yourself with the requisite stores, and take favourable opportunities of careening them, one at a time, so that you may always be in readiness for the performance of any service that may be required of you. You will consider yourself charged with the protection of our commerce to windward of Havana, while I shall use other means of protecting it to leeward.

The vessels must come here for provisions, and must always come with their water filled; but should any small supplies be required, you can obtain them from Mr. Warner, the American Consul at Havana, or Mr. F. Adams, an American merchant at Matanzas. You will observe, however, the utmost economy in every thing. Whenever it becomes necessary for you to leave your station, you will apprise the merchants, in order that they may make arrangements accordingly. Very respectfully, your obedient serv't,

(Signed,) D. PORTER.

Lieut. Com. L. KEARNEY, *U. S. Schooner Grey Hound.*

SEA GULL, *Matanzas, April* 16, 1823.

SIR: In consequence of your having sent here the Weazel, and of your intentions of coming here yourself, I have sent the Wild Cat and Beagle to take your place off Havana.

I should wish to see you before my departure.

Very respectfully, your obedient servant,

(Signed,) D. PORTER.

Lieut. Com. L. KEARNEY.

(Extract.)

U. S. Galliot Sea Gull, *Allenton, May 19th*, 1823.

Sir: You will proceed to give convoy every Sunday from Ha
ana, examining the coast occasionally to the east and west of tha
ort. (Signed,) D. PORTER.

Directed to Lieut. Com. S. Kearney.

Sea Gull, *June 3d*, 1823.

Sir: The enclosed is the copy of a communication respecting a
rate on the south side of Cuba, which you will proceed in pur-
it of.

You will consider yourself authorized, as circumstances may
em to make necessary, to go around the Island of Cuba, to run
er the Cape Cartooche, to touch at Jamaica, to extend your cruise
far as the Mississippi, and run down to Galveston; and as the
ject is not to restrain your permit, by confining your limits, you
, if there is a reasonable prospect of meeting with pirates,
tend your researches to such distance as may enable you to re-
n to this place by the time your provisions may be expended.

Should the Jackall arrive this evening, she will probably join
ur command; or if you should sail before her arrival, it is like-
I shall order her to join you off the south end of the Isle of
es.

f, in the course of your cruise, you should find persons disposed
end money to the United States, you can take it on board on
h freight as may be agreed on between you; and if the destina-
should be New Orleans, you can proceed with it direct; but if
he Atlantic states, you will, after receiving it on board, touch
for further orders.

he pursuit of pirates, is, however, the primary object, and ev-
hing else is to yield to it.

shing you a pleasant and successful cruise, your obedient ser-
(Signed,) D. PORTER.

. Com. L. Kearney.

U. S. Store Ship Decoy, *Thompson's Island, April 11th*, 1823.

I have the honour to report to you the events of my cruise
uadilla to this place, accompanied by the U. S. schooner
viz:

aving Aguadilla on the 12th ultimo, we proceeded off
and harbour, on the south side of Cuba, and from thence
re to the Westward, looking into St. Jago, and all ports
s between that and the west end of the Island, (Cape
without falling in with any piratical or other vessels, liable
, or hearing of any piratical acts having been recently
l along that coast.

23rd ult. we communicated with the British sloop of war
lying at anchor under the Isle of Pines, and was informed

that she had tenders, then cruising among the Keys and Bays in that quarter, but had heard of no pirates.

On the 24th, fell in with the British armed cutter Grecian, of ten guns, off Cape Corientes—was informed that a day previous she had destroyed a piratical vessel in St. Philips Bay, the vessel burnt, and nearly all the men killed or drowned—said to have been the only piratical vessel heard of in that quarter.

Same day, off Cape Antonio fell in with H. M. ship Tamer, and two armed schooners, Tenders, who confirmed the report of the Grecian.

On the 25th, proceeded in the Jackall, back to Cape Antonio, within the reefs, without discovering any vessels or boats of any description, except one or two canoes, at an establishment at the Cape, where there were also some huts and Spaniards. The English boats had visited there, and some of their officers being on shore, we did not examine that place so particularly.

From Cape Antonio we proceeded along the out side of the Colorados, and close in with the reefs and coast, up as far as Havana—saw His Majesty's ship Hyperian off Cape Antonio, and afterwards off the Bay of Honda, cruising also for pirates.

Under an impression that nothing remained to be done, we proceeded to Thompson's Island, giving convoy to several merchant vessels out of Havana. I am, very respectfully, your obedient servant,

LAWRENCE KEARNEY.

Lieut. Com. Kearney to Commodore Porter.

U. S. SCHOONER GREYHOUND, *Thompson's Island, August 10th, 1823.*

SIR: I have the honour of transmitting herewith, for your information, the enclosed report of the cruize of this vessel, commenced under circumstances of a vexatious nature, as the report will shew; but, terminating in a manner, I trust, somewhat satisfactory to you, although the principal object pointed out in your letter (respecting the pirates at the Isle of Pines) has not met that success you may have anticipated; but I have the satisfaction to inform you, that, although I have not been so fortunate myself, it has been the fortune of others to apprehend those very villians who committed the outrage upon the American vessels *Reuben and Eliza* and *Mechanic*, as mentioned in your orders.

They are now in prison, at Trinidad de Cuba. Having had a communication with the Governor of that place on the subject, I submit herewith my letter, with his answer, (together with some publications to be seen in Spanish newspapers,) for your information. Although I was not successful in getting the pirates into my possession, the application made through the enclosed letter, and which, indeed, I did not expect; yet you will perceive, it has drawn an official acknowledgment of these pirates being in possession of the authorities; making it a matter of public notoriety, it becomes more obligatory to pursue their prosecution to a just and proper issue.

I take this occasion to express to you the high sense I entertain

of the Governor of Trinidad, which his attentions demand. He tendered us every civility and aid in his power in the prosecution of our duties; offering to procure us a pilot, and, altogether, evincing a disposition of friendly co-operation, seldom met with on the island of Cuba.

For your better information on the subject of our visit to Cape Cruz, I beg leave to subjoin the detail of events, in a more circumstantial and particular manner than given in the enclosed report, viz.

On the 20th ult. cruising in company with the Beagle, Lieut. Com. Newton, Cape Cruz bearing S. E. about four leagues, brought too and examined a small armed schooner, of about 35 tons, having three prizes in company. She proved to be a Colombian, duly commissioned, commanded by a Frenchman, and manned by Frenchmen, and some others, apparently natives of the country where she belonged. Her commission was dated at Carthagena, last December. Her prizes were examined by Capt. Newton, and found to be Spanish droggers, except one, a large canoe, calculated to carry about twenty men, which boat had been taken on shore, near the Cape, where she had been abandoned by a party they supposed to be pirates, on being chased by said schooner.

On the following day, we stood in, with the Beagle in company, and anchored under the Cape. Capt. Newton and myself, as well for recreation as to examine the Cape, landed with a small boat; but, finding the walking bad, we again embarked, and proceeded along shore in search of some settlement. Soon after getting out of site of our schooners, (by doubling around the Cape) a sudden and quick fire was opened upon us, from among a thicket of mangrove bushes and rocks, with which the Cape is bordered.

The party was armed with muskets and blunderbusses, which were fired around us, alternately without effect; at the same time, a firing upon us was opened from another quarter, from guns mounted on a high point of rocks a short distance ahead. Thus situated, with a cross fire upon us, enabled only occasionally to return the fire of the party in ambush, as some of them would dodge from bush to bush, or rock to rock; having for our arms but a fowling piece and one or two muskets, we were induced to return to our vessels, which we did. It being late, we waited till next day.

On the morning of the 22d, Capt. Newton and myself again set off, hoisting our colours upon the boat; as it was a fair presumption, that, in consequence of a Colombian vessels being on the coast, some mistake on the part of the people on shore, might have been made in regard to our character. But that proved to be groundless: for, having reached within the distance of their guns, they opened upon us with more apparent spirit and determination than before, from a position inaccessible, apparently, in the rear, from the thickets of bushes and briars; and the same in front, from a precipice of rugged rocks; and, so commanding altogether, that, to prevent the loss of lives, I directed both vessels to be warped round the Cape, along an extensive reef, which almost encircles it, affording a smooth

and shallow harbour. We did not succeed in getting within gun-shot of the establishment, until we had reached five and six feet water, when we anchored.

Lieut. Farragut, with the marines and some seamen, was ordered on shore, to endeavour to gain a position in their rear, to attack them, or cut off their retreat before the schooner moored, or their landing could be discovered by the pirates—as we had deemed the party we were about to attack. The officers of both schooners volunteered, and accompanied the party on shore, one being only reserved in each schooner, and a sufficiency of men for the guns, hoping to attract the attention of the pirates from Mr. Farragut's party. Several shot were fired from the schooners, which drove the pirates into places of security behind the jutting rocks, where they seemed to be in considerable force; the shot being seen to strike among the rocks behind which they sat; and not until the boats were despatched to land in front, and Lieut. F's party was close upon them, did they abandon the advantageous position they occupied. They were pursued, but with so decided a disadvantage to the pursuers, from their want of knowledge of the passes, that none, unfortunately, were taken, except two old and decrepid beings, whose age and infirmities placed them beyond the merited chastisement their more active comrades, had they fallen into our power, would have received.

A four pounder, two swivels mounted on the heights, and some indifferent articles of small arms, were found; they, however, escaped with their muskets and blunderbusses, or else hid them in some of the numerous deep and intricate caverns to be found on the cape: in one of which, various articles of plunder were stowed, but of no value; however, enough to show the character of the wretches who infest that place, human bones were found in the cave. We found eight boats, but not of a large size; their principal one was, no doubt, the one taken by the Colombian cruiser, as before stated; and those men armed with muskets and blunderbusses were, no doubt, of her crew.

From information derived from the prisoners, we learn that the captain of the gang was in prison in the interior of the island, for having burnt an English vessel off that cape. As a singular instance of the growing propensity of the present age for piracy, I have to inform you, that even a *woman* and *children* were of this gang, belonging to the captain of them—a second "Helen M'Gregor," and the old men, too, who can do nothing else, light up the signal fire, which was done in the present instance, on our appearing on the coast.

In another case, a captain of a vessel informed me that he had been plundered by a gang of pirates, who took him by surprise, under the following stratagem, viz.

"An old man, (his bald head and hoary locks exposed to view) and a little boy to steer the boat, pulled, or sailed along side of his vessel; when it was too late, discovered that a strong party lay concealed in the bottom of the boat, to whom he had to surrender."

The female just mentioned was removed to some place of safety before the attack was made, (said to be the wife of the captain.)

Finding our pursuit of the pirates promised no success, I considered it unimportant to remain longer at the cape, having destroyed their means of doing further mischief for a time; and, taking into consideration the state of our officers and men, worn down by fatigue from a long pursuit over one of the roughest countries I have ever seen, their clothes nearly torn off, from bushes of impenetrable thickness, and their shoes cut off their feet by sharp pointed rocks, over which they passed, I abandoned the place, bringing off the arms, &c. of any consequence, and setting fire to every thing else that would *burn*.

One large and well thatched house, and three smaller ones, were consumed, and a quantity of fishing nets; and their furniture, which I have always observed to be a part of the outfits of a piratical establishment; they are merely used for their immediate wants, in procuring sustenance, when their real profession proves unfruitful, and obliges them to it.

I have written you a very long and full account of this affair, in order that you may be possessed of every information in my power to give in the event of a question arising as to the propriety of landing and burning property on a foreign shore; and should this case be noticed by the supporters of "territorial jurisdiction," (over uninhabited parts of Cuba, notorious only for murder and piracy,) it will be seen that your officers and men's lives have been jeopardized, and the flag of their country made a target for the lawless villians to fire at, at their pleasure, and which will continue so to be, if any restrictions should be put upon our landing in similar places, where no authority exists than the will of the marauders themselves who inhabit those places.

I took the liberty of releasing the two prisoners, as there was no proof to establish them pirates; and I furnished them a boat, with an express condition, that they should never appear again at the Cape, and that I should take and treat as pirates, any persons found there hereafter, not furnished with a special licence from the present Captain General of Cuba, setting forth their character and occupation.

This was taking upon myself, perhaps, too much, but it is now submitted to you, whether such a measure would not be proper, not only in regard to that place, but all others of a like position.

That there is a chain of intercourse with fishermen who live in such places, and pirates, I have no doubt; and it must be obvious from several cases of late.

As regards those at the Isle of Pines, they affect to know nothing of the robbery of the vessels your order mentions to me having taken place there, although the very articles of the cargoes of those vessels I saw in their house.

At Cape Antonio, two years since, I found fishermen's huts filled with piratical goods, papers and letters, robbed from different vessels, strewed about their floors.

That fishermen, as well as pirates, should be moved from all the capes, or rather uninhabited parts of Cuba, where the proper authorities can have no control, I think necessary, and will I hope be the case.

Very respectfully, I have the honour to be, your obd't serv't,

LAWRENCE KEARNEY, *Lt. Com'dt U. S. Navy.*

Com. D. PORTER,
Commanding U. S. Naval Forces in the W. Indies and Gulf of Mexico.

P. S. In my report of the affair at Cape Cruz, I forgot to mention, that we were not either hailed, or was there any colours displayed by the party that attacked us, by which we could ascertain their character.

As regards our character, they could have no great doubt: for they had seen us communicating with an English ship of war, close off the Cape, on the same day of our arrival.

I was informed by the Governor of Trinidad, of pirates infesting the coast to the eastward of that place, and was induced to proceed within the keys in pursuit.

On my way, boarded a small schooner, belonging to the Grand Cayman island, and the information before received was corroborated by her master.

Under these impressions, I reached Cape Cruz, and our reception there induced a belief that we had met the party complained of.

I am, very respectfully, your obedient servant,

Com. DAVID PORTER, L. KEARNEY.
Commander U. S. Naval Forces in the West Indies and Gulf of Mexico.

WASHINGTON, *July 8th*, 1824.

SIR: After executing my orders to Lieut. Commandant T. H. Stephens, of the 25th of April last, (copy of which I enclose you) you will fill up your provisions and stores, touch at Havana, offer convoy to vessels bound into the Gulf of Mexico, and then proceed to the coast of Yucatan—run down to Campeachy—there offer convoy and protection, and from thence proceed to Alvarado, La Vera Cruz and Tampico, remaining in the neighbourhood of these places about six weeks, giving protection to our commerce, and governing yourself in all your proceedings by my general instructions of the 26th February, 1823, which have, no doubt, been transferred to you by Lieut. Commandant Stephens.

If, in the course of your stay in the Gulf, our merchants should have specie to transport from one port or place, or to the United States, you will take it on board on the usual freight, taking special care that nothing like illicit shipments are made, and that nothing in the shape of public advertisements appear, or that any thing is done liable to misconstruction, or give rise to unfriendly comments, and above all, that your vessel is not made an object of commercial speculation and enterprise. Nothing in the shape of merchandise must be taken on board, except under the circumstances provided

for by the Act for the better government of the Navy. Let all your proceedings in these respects be open; make known frankly to the authorities of the place your objects, and let your conduct be such as to remove all suspicions.

In the transportation of specie, an object of great importance to our country, we have a delicate duty to perform, and one which very many believe is not obligatory on us; confine yourself, however, strictly to your orders, and no remarks, whether publicly or privately, may need cause you pain.

After receiving the specie on board, proceed with the convoy, if any, to Havana, thence to New York, touching if necessary, at Charleston, to land any specie you may have for that place. After landing your specie at New York, you will return to Thompson's Island by the same route, pointed out in my instructions of the 25th of April. Wishing you a pleasant cruise,

Your obedient servant,

(Signed,) D. PORTER.

Lt. Com'dt JOHN GALLAGHER, *New York.*

Copy of a letter from Lieut. Com'dt John Gallagher to Com. David Porter—communicated to the Secretary of the Navy.

U. S. SCHOONER SHARK, *Havana, November 6th*, 1824.

SIR: I had the honour to address you from Thompson's Island, dated 8th September last, giving an account of our proceedings up to that date.

The wind being from the southward, and squally, we did not sail from Thompson's Island until the 10th, and arrived at the Havana on the 12th. After remaining at the Havana three days, not finding any vessels bound into the Gulf of Mexico, or desirous of convoy, we left the harbour, and stretched over for Thompson's Island, for the double purpose of landing $2000, taken on board at Havana for Purser Thornton, (which money I was requested to land there, it being much wanted for the station,) and ascertaining if Lieut. Varnum, in the Barge Gallinipper, and the schooner Terrier, had sailed on the expedition to Point Yeacos.

I arrived at the Island on the 16th September, landed the specie, (Lieut. Varnum had sailed four days previous) and sailed again on the next day, shaping our course for the Gulf of Mexico.

After arriving in the Gulf we cruised about six weeks, touching off Campeachy, and communicating with the town. Not finding any American vessels here, nor hearing of any pirates or recent piracies, we proceeded to the westward, cruizing from Roca Partido up with Alvarado; after which, anchored off the harbour of Alvarado, and communicated with the town, offering convoy and protection to our commerce. There being only three American vessels in port, none of which were ready to sail immediately, my further services being unnecessary at that time, I proceeded to Vera Cruz, at which place we remained at anchor three days, the Weazel in company, bound to Alvarado. There was not a single American vessel in port, conse-

Should I leave Thompson's Island before your arrival there, I shall leave orders for you. During your stay in the Gulf, as well as on your passage out and home, you will seek every occasion to give protection to the persons and property of the citizens of the United States.

Wishing you a pleasant and a profitable cruise, I am, Sir, very respectfully, D. PORTER.

Lieut. Comdt. THOMAS H. STEVENS, *U. S. schr. Shark.*

U. S. SHIP JOHN ADAMS, *January 1st*, 1824.

SIR: You will proceed to the Gulf of Mexico with the United States' schooner Shark under your command, and land the two gentlemen, agents of the bank of the United States, either at Alvarado, La Vera Cruz, or Tampico, at their option. You will then regulate your movements so as to receive on board your vessel, such sums of money in any of the ports of Mexico, in the Gulf, as they may designate;—the money to be received on deck, and in parcels of not less than one thousand dollars—put up in good substantial boxes, barrels, kegs or skins.

The money received from them is not to include any other than what belongs to the bank of the United States, except on the usual terms of freight. All consignments, therefore, to the Bank, and not the property of the Bank, are to be taken on the terms usually given by merchants, and you will take the British rule as your guide.

When you shall have completed your freight, you will repair to Thompson's Island for further instructions. It is presumed that you will not find it necessary to remain in the Gulf more than six weeks, and I shall endeavour to send a vessel to relieve you about the 1st of March next.

I have read to you the instructions of the honourable Secretary of the Navy, relative to the transportation of treasures. I have no apprehension that you will go beyond the authority given—it is therefore needless to make any further communication to you on the subject. I will merely remark, however, that none of the vessels of war under my command must, on any account whatever, and under any inducement, be used for the purpose of commercial adventure. You can carry the treasures of any of our citizens from one port to another, and you can take it to the United States; but nothing in the shape of public advertisements must appear—and in all your intercourse with the authorities of the places you may visit, make frank acknowledgments of the motives which brought you there.

Let all your transactions in this respect be open, and not liable to misapprehension. Nothing whatever, in the shape of clandestine shipments must be countenanced. For the information of the government, you will, on joining me, report to me the amount of treasures on board your vessel, where taken from, where destined,

touching at St. Jago and Trinadada, for information respecting
y.
is extremely desirable that no unnecessary delay should take
: in the United States, as the services of the Jackall will be
ed, and any delay will prevent my carrying into effect the ar-
ement of the periodical sailing of vessels from here.
(Signed by) D. PORTER.
ected to Lieut. Comdt. THOS. H. STEVENS.

U. S. SHIP JOHN ADAMS, *Craney Island, Dec. 27th*, 1823.

: You will proceed to the Gulf of Mexico, with the U. S.
ner Shark, under your command, and land the two gentlemen,
ts of the Bank of the United States, either at Alvarado, La Ve-
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ns, on which you have taken them.

Should I leave Thompson's Island before your arrival there, I shall leave orders for you. During your stay in the Gulf, as well as on your passage out and home, you will seek every occasion to give protection to the persons and property of the citizens of the United States.

Wishing you a pleasant and a profitable cruise, I am, Sir, very respectfully, D. PORTER.

Lieut. Comdg. THOMAS H. STEVENS, *U. S. schr. Shark.*

U. S. SHIP JOHN ADAMS, *January 1st*, 1824.

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The money received from them is not to include any other thing but what belongs to the bank of the United States, except on the usual terms of freight. All consignments, therefore, to the Bank, which are not the property of the Bank, are to be taken on the terms usually given by merchants, and you will take the British rule as your guide.

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(Signed) D. PORTER.

Commandant TH. D. STEVENS, *U. S. schr. Shark.*

U. S. SHIP JOHN ADAMS, *At sea, February 25th*, 1824.

After landing the specie on board your vessel at Philadel-
u will proceed to the coast of Africa, running down as far
Messurado, communicating with the public agent there,
ding every aid, assistance and protection to the colony of
ks in your power to bestow.
I you in your route capture any slave vessels, you will de-
m to the agent appointed by the government to receive

thence you will run for the coast of Guinea, and continue
coast of Venezuela, thence to Jamaica, and from thence
a and Thompson's Island, where you will receive my fur-
ers.
s route you will seek every occasion to afford such pro-
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(Signed) D. PORTER.

Commandant THOS. H. STEVENS, *U. S. schooner Shark.*

U. S. SHIP JOHN ADAMS, *Thompson's Island, April 25th*, 1824.

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(Signed,) D. PORTER.

Com. THOS. H. STEVENS.

U. S. Ship John Adams, *February 14th*, 1824.

Sir: Observing in the public prints your arrival in New-York, I have to direct your return to Thompson's Island, with all possible despatch, by the way of Caycos or Crooked Island Passage, and round the south side of Cuba, looking into Cumberland Harbour, St. Jago, Cape Cruz, Trinidada, Isle of Pines, &c. &c. You will be governed by the general cruising instructions, as regards the duties to be performed.

Very respectfully, your obedient servant,

(Signed,) D. PORTER.

Lieut. Com. James P. Oellers, *U S. Sch. Jackall.*

U. S. Ship John Adams, *Norfolk, January 24, 1824.*

Sir: You will proceed with the United States schooner Grampus under your command to the Coast of Africa, continuing along the coast in the usual track of slave trading vessels, in pursuance of the general cruising instructions, and the acts of Congress for the suppression of the slave trade, and capture of piratical vessels; copies of which, and of the laws relative thereto, you have enclosed.

While on the coast, you will touch on the American settlement of free coloured people, communicate with the agent of the Colonization Society, ascertain the state and condition of the Colony, giving it such aid, assistance, and protection, as it may stand in need of, and be in your power to furnish.

From thence you will proceed towards the coast of Guinea, and thence in the route usually traversed by vessels with slaves, which is most north of the Antilles, and the Keys to Cuba. You will, in your route, touch occasionally at some of the Islands of the West Indies, to obtain news of piratical vessels; but you will endeavour to reach Matanzas, fill your water, and repair to Thompson's Island by the middle of May, where you will receive my further orders.

Wishing you a pleasant and successful cruise, I am, with great respect, your obedient servant,

(Signed,) D. PORTER.

Lieut. Com. John D. Sloat.

U. S. S. Galliot Sea Gull, *Matanzas, May 20th*, 1824.

Sir: I have received yours of yesterday, communicating your proceedings, in conformity with my instructions of the 24th January, which is highly satisfactory, and shall be laid before the Hon. Secretary of the Navy, for his information, and for the information of those interested in the establishment at Cape Messurado.

After filling your water and obtaining your supplies of provisions, you will touch at Havana, and take under convoy, vessels bound to the Gulf of Mexico, run down on the coast of Yucatan, touch at Campeachy, thence to Alvarado, Sacraficio, La Vera Cruz and Tampico, giving every protection in your power to the

persons and property of American citizens, and convoy to vessels of all nations against piratical aggression.

After remaining in the Gulf about six weeks, you will proceed to Havana, and from thence to New York, and you are permitted to receive on board, the gold and silver of our merchants, at the same rate of freight as is charged by British ships of war, but you will be particularly careful that nothing like clandestine shipments take place, and that nothing in the shape of merchandise be permitted to come on board; for, although it is the desire of the Navy Department, that every facility be given to our merchants to get their specie from one port or place to another, it is strictly forbidden, that our ships should become objects of commercial speculation and enterprise; in other respects, let all your transactions in regards, be open, and not subject to misconstruction, and in conformity with the orders of the Secretary of the Navy. You will, on your arrival at New York, make to me a written report of the sums brought in your vessel; the place or places taken from, where landed, and the rate at which it was taken on freight. Wishing you a pleasant cruise, I am, with great respect, your obedient servant,

(Signed,) D. PORTER.

Lieut. Comd't JOHN D. SLOAT, *U. S. Schooner Grampus.*

Extract of a letter from Lieut. Comm'dt John D. Sloat to Commodore David Porter, Commanding the U.S. Naval forces in the West Indies, Gulf of Mexico, and coast of Africa, communicated to the Secretary of the Navy, dated

U. S. SCHOONER GRAMPUS, *Matanzas, May 29th*, 1824.

SIR: In conformity to your orders of the 24th January, 1824, I sailed from Hampton Roads on the 28th February, and proceeded to the coast of Africa. On the 4th of April I anchored at Cape Messurado and visited the colony of free people of colour, where I remained eight days, and have the satisfaction to report that I found them comfortably settled, and at peace with all the neighbouring nations, although they apprehend that the tribe they had the difficulty with previous to the visit of the Cyane is not friendly to them, yet they do not believe they will venture to attack them again, particularly since my visit, as I gave the natives to understand that I should return there shortly, and they know that I supplied the colony with ammunition, provisions, &c. &c. a return of which I enclose. The appearance of the Grampus on the coast has been of essential service to the settlement. The trade with the natives in their immediate vicinity had been stopped for some time, but when they found the Grampus to be a vessel of war, the King sent in word that he would open the trade, and before I left there the natives began to come in with provisions and other articles, in considerable numbers. The agent for the United States, as well as for Colonization Society, had left the settlement some time before my arrival, they have appointed acting agents, Mr. Waring for the United States, and Mr.

U. S. Ship John Adams, *February* 14*th*, 1824.

Sir: Observing in the public prints your arrival in New-York, I have to direct your return to Thompson's Island, with all possible despatch, by the way of Caycos or Crooked Island Passage, and round the south side of Cuba, looking into Cumberland Harbour, St. Jago, Cape Cruz, Trinidada, Isle of Pines, &c. &c. You will be governed by the general cruising instructions, as regards the duties to be performed.

Very respectfully, your obedient servant,

(Signed,) D. PORTER.

Lieut. Com. James P. Oellers, *U S. Sch. Jackall.*

U. S. Ship John Adams, *Norfolk, January* 24, 1824.

Sir: You will proceed with the United States schooner Grampus under your command to the Coast of Africa, continuing along the coast in the usual track of slave trading vessels, in pursuance of the general cruising instructions, and the acts of Congress for the suppression of the slave trade, and capture of piratical vessels; copies of which, and of the laws relative thereto, you have enclosed.

While on the coast, you will touch on the American settlement of free coloured people, communicate with the agent of the Colonization Society, ascertain the state and condition of the Colony, giving it such aid, assistance, and protection, as it may stand in need of, and be in your power to furnish.

From thence you will proceed towards the coast of Guinea, and thence in the route usually traversed by vessels with slaves, which is most north of the Antilles, and the Keys to Cuba. You will, in your route, touch occasionally at some of the Islands of the West Indies, to obtain news of piratical vessels; but you will endeavour to reach Matanzas, fill your water, and repair to Thompson's Island by the middle of May, where you will receive my further orders.

Wishing you a pleasant and successful cruise, I am, with great respect, your obedient servant,

(Signed,) D. PORTER.

Lieut. Com. John D. Sloat.

U. S. S. Galliot Sea Gull, *Matanzas, May* 20*th*, 1824.

Sir: I have received yours of yesterday, communicating your proceedings, in conformity with my instructions of the 24th January, which is highly satisfactory, and shall be laid before the Hon. Secretary of the Navy, for his information, and for the information of those interested in the establishment at Cape Messurado.

After filling your water and obtaining your supplies of provisions, you will touch at Havana, and take under convoy, vessels bound to the Gulf of Mexico, run down on the coast of Yucatan, touch at Campeachy, thence to Alvarado, Sacraficio, La Vera Cruz and Tampico, giving every protection in your power to the

persons and property of American citizens, and convoy to vessels of all nations against piratical aggression.

After remaining in the Gulf about six weeks, you will proceed to Havana, and from thence to New York, and you are permitted to receive on board, the gold and silver of our merchants, at the same rate of freight as is charged by British ships of war, but you will be particularly careful that nothing like clandestine shipments take place, and that nothing in the shape of merchandise be permitted to come on board; for, although it is the desire of the Navy Department, that every facility be given to our merchants to get their specie from one port or place to another, it is strictly forbidden, that our ships should become objects of commercial speculation and enterprise; in other respects, let all your transactions in regards, be open, and not subject to misconstruction, and in conformity with the orders of the Secretary of the Navy. You will, on your arrival at New York, make to me a written report of the sums brought in your vessel; the place or places taken from, where landed, and the rate at which it was taken on freight. Wishing you a pleasant cruise, I am, with great respect, your obedient servant,

(Signed,) D. PORTER.

Lieut. Comd't JOHN D. SLOAT, *U. S. Schooner Grampus.*

Extract of a letter from Lieut. Comm'dt John D. Sloat to Commodore David Porter, Commanding the U.S. Naval forces in the West Indies, Gulf of Mexico, and coast of Africa, communicated to the Secretary of the Navy, dated

U. S. SCHOONER GRAMPUS, *Malanzas, May 29th,* 1824.

SIR: In conformity to your orders of the 24th January, 1824, I sailed from Hampton Roads on the 28th February, and proceeded to the coast of Africa. On the 4th of April I anchored at Cape Messurado and visited the colony of free people of colour, where I remained eight days, and have the satisfaction to report that I found them comfortably settled, and at peace with all the neighbouring nations, although they apprehend that the tribe they had the difficulty with previous to the visit of the Cyane is not friendly to them, yet they do not believe they will venture to attack them again, particularly since my visit, as I gave the natives to understand that I should return there shortly, and they know that I supplied the colony with ammunition, provisions, &c. &c. a return of which I enclose. The appearance of the Grampus on the coast has been of essential service to the settlement. The trade with the natives in their immediate vicinity had been stopped for some time, but when they found the Grampus to be a vessel of war, the King sent in word that he would open the trade, and before I left there the natives began to come in with provisions and other articles, in considerable numbers. The agent for the United States, as well as for Colonization Society, had left the settlement some time before my arrival, they have appointed acting agents, Mr. Waring for the United States, and Mr.

Johnson for the Society, both coloured men. By their advice the people have elected a council of twelve to assist in managing the affairs of the colony, and by what I could discover, they appear to be doing very well, but they are extremely desirous to have the advice of *good agents;* they say they do not yet feel themselves competent to manage the establishment. Their settlement is very pleasantly situated on a narrow peninsula, the sea on one side and Mesurado river on the other, on high ground, and they have for its protection a tolerable good fort, built of stone at one end of the village, on which are mounted at present one long eighteen pounder, and two eighteen pound gunnades; at the other extremity is a blockhouse with one nine pounder and one six. They also have mounted one brass four pound field piece and one two pound swivel, besides several other guns not mounted, and about one hundred muskets, eighty of which are in good order, and the others they will be able to repair with the tools and materials I gave them: the number of inhabitants is two hundred and thirty-seven; 78 of them capable of bearing arms, who are formed into a company, and muster for exercise every Saturday. They all have very good houses, and some of them begin to cultivate gardens; they have also cleared a considerable piece of ground intended for cultivation; they catch in the river a variety of fish, and plenty of oysters. They have an abundance of fine timber, and the soil is very good; and they all appeared to be quite contented with their situation. They probably enjoy as good health there, as they would in any part of the world. Of the last emigrants, one hundred and five, all have gone through their seasoning; three young children only have died, and they with complaints incident to every climate and country. I have made this detailed report, believing it would be agreeable to you, to the Society, and to all those friendly to the settlement, to know exactly how these people are situated, as I have been informed at St Thomas, that there are very discouraging reports in circulation in the United States. We sailed from thence on the 12th of April, and I am sorry that I am obliged to add, on the eighth day several cases of malignant bilious fever occurred on board, three of which proved fatal. A particular description of the character and progress of the disease, by Dr. Halse, I beg to enclose. No person has been permitted to go on shore except when necessity required it, and no persons were attacked with this disease except those who had been thus exposed. After leaving Cape Messurado, I beat up the coast to the northward of Rio Grande, but did not meet with any vessels coming within the limits of my instructions. From there I proceeded in the execution of your further orders, and, on the 10th of May, anchored at Martinico, to obtain information, fill my water casks, and obtain other supplies, all of which were nearly exhausted. Sailed thence on the 16th, and anchored at St. Bartholomews on the 18th; sailed again on the 19th, and anchored at St. Thomas on the 20th, sailed thence on the 21st; called off St. Johns, Porto Rico, on the 23d, and communicated with the American Consul. The

U. S. Ship Peacock, *St. Thomas, March 3d*, 1823.

Sir: You will proceed with the Shark, under your command, accompanied by the Ferret, Terrier and Weazel, down the south side of Porto Rico, acting in conformity with my general instructions of the 26th.

You will continue to cruise in the neighbourhood of Aguadilla at the west end of the island, detaining until my arrival there, all vessels which may have committed any act of piracy on our commerce.

On your way down, give the coast thorough examination, and look into Cat Island.

With great respect, your obedient servant,

(Signed) D. PORTER.

Lieut. Comdt. Matthew C. Perry, *Comd'g U. S. schooner Shark.*

U. S. Ship Peacock, *at Aguada, March 11th*, 1823.

Sir: You will proceed with the United States schooner Shark under your command, to the coast of Caraccas, touching at Porto Cabello and Laguira, to ascertain whether there are any interruptions to our commerce in that quarter; and if there should be, you will give it such protection as may be in your power.

By an official despatch from the Captain General of Porto Rico, I am informed that the blockade of the coast of Colombia is raised, except against munitions of war, and the enclosed copy of a list of privateers fitted from Porto Rico, will aid you in identifying the character of those you may meet with in your cruize.

From thence you will proceed down the coast, touching at the various places, wherever it may be found necessary, until you get to La Vera Cruz, in which neighbourhood you will remain for the protection of our commerce, until it may be necessary for you to rejoin me, which will depend on your provisions and supplies.

If, in the course of your cruize, you should find persons who have money to send to the United States, you will take it on board, agreeing with them as to the amount of freight; and while you remain at or about La Vera Cruz, you will please to communicate with Mr. John Mason, in Mexico, who is Secretary of American Legation there, on the subject of monies to be transported to the United States, giving him information of your movements, that his arrangements may be made accordingly.

On leaving La Vera Cruz, you will proceed to Thompson's Island for my further instructions.

I should wish to be apprised of the time when it would be likely that you would leave La Vera Cruz, sufficiently early for me to send a vessel to relieve you.

With great respect, your obedient servant,

(Signed) D. PORTER.

Lieut. Commandant M. C. Perry.

SEA GULL, *Allenton, June 24th*, 1823.

SIR: You will proceed off Havana with the schooner Shark under your command, and there offer convoy to vessels bound to the United States; from thence you will proceed to New York, there to land the specie, discharge the men whose times are out, as well as those who have but a short time to serve, and to cause the necessary repairs to be made to your vessel, with all expedition, that she may return to this station with the least possible delay.

With great respect, your obedient servant,

(Signed) D. PORTER.

Lieut. Commandant M. C. PERRY.

SEA GULL, *Allenton, June 24th*, 1823.

SIR: Understanding as you do, my views with regard to the service to be performed in these seas, it is my wish, should you return in the Shark, that her protection to the commerce of the United States, on her way here, should take a range equal, or nearly so, to the round recently taken; but should her commander be changed for one who has not served under my command on this expedition, it is my wish that she should return here by the shortest route, in order that I may give him his instructions.

Should you leave the Shark, you will furnish your successor with a copy of this letter for his government.

With great respect, your obedient servant,

(Signed) D. PORTER.

Lieut. Commandant M. C. PERRY.

U. S. SHIP PEACOCK, *Matanzas, 29th March*, 1823.

SIR: You will, with the United States schooner Wild Cat, accompanied by the Beagle, remain to give protection to the American commerce in this quarter, and afford convoy every Sunday, as far as the Double Headed Shot Keys. There is a bay to the windward of this place, and around Port Yeacos, called Sequappa Bay, which has been the resort of pirates; I wish you to embrace the first opportunity to visit it, but dont let your visit interfere with your convoy

Any supplies that may be wanted for the two schooners, you will obtain through the agency of Mr. L. Adams, a merchant of this place; you will be careful in not obtaining any but such as may be absolutely necessary.

Any intelligence you may receive, of sufficient importance to make it necessary that I should be made speedily acquainted with it, you will convey to me as early as possible, by one of the schooners. She will find me at Thompson's Island.

Very respectfully, your obedient servant,

(Signed) D. PORTER.

Lieut. Commandant C. W. SKINNER, *U. S. schooner Wild Cat.*

SEA GULL, *Matanzas, April 16th*, 1823.

SIR: Proceed with the Wild Cat and Beagle, to give convoy from Havana next Sunday morning, after which, go to Thompson's Island, take in one months provisions, and return to Havana, to give convoy every Saturday. Should you meet the Grey Hound, inform the commander of my being here, and my wish to see him.

Very respectfully, your obedient servant,

(Signed) D. PORTER.

Lieut. Commandant C. W. SKINNER.

SEA GULL, *Allenton, May 19th*, 1823.

SIR: As soon as you are relieved by the Grey Hound, you will fill your water and proceed to this place with the Wild Cat and Beagle, that they may undergo the necessary repairs.

(Signed) D. PORTER.

Directed to Lieut. Commandant C. W. SKINNER.

SEA GULL, *Allenton, June 18th*, 1823.

SIR: You will proceed to Havana, and deliver the letter bag of the Wild Cat to Messrs. Castillo, Black, & Co. informing them you will leave there for the United States, on the 1st of July. You will then offer convoy, proceed to Matanzas, leave a letter bag with Messrs Latting & Co. informing them you will sail on the 28th.

You will offer convoy from Matanzas—take in specie, return to Havana—take in specie from there for the United States, and return here for further orders, leaving Havana on the 1st of July.

Very respectfully, your obedient servant,

(Signed) D. PORTER.

Lieut. Commandant C. W. SKINNER.

NAVY DEPARTMENT, *June 19th*, 1824.

SIR: Circumstances have rendered it necessary to give to your cruize a direction, which was not intended or anticipated, until within two or three days past.

You will receive such orders from Captain Kennedy, as he shall transfer to you, relating to his cruise on the coast of Africa—and you will obey them, as if directed to yourself.

On Wednesday next, the Rev. Mr. Gurley will leave this, and on your arrival at Norfolk, you will receive him on board, and proceed without delay, to the coast of Africa, touching at Cape Messurado, and following thence, the directions in your orders. It will probably be necessary for you to remain at the Cape eight or ten days, in order that Mr. Gurley may accomplish what he is directed to do. He will return with you to the West Indies, where you will report to Commodore Porter. Mr. Gurley will return thence to the United States, by the first opportunity.

I am, very respectfully, sir, your most obedient servant,

SAML. L. SOUTHARD.

Lieutenant CHARLES W. SKINNER, *Commanding U. S. schooner Porpoise, Norfolk, Va.*

Copy of a Letter from Lieut. C. W. Skinner, commander of the U. S. Schooner Porpoise, enclosing copies of the correspondence referred to in the letter.

U. S. SCHOONER PORPOISE, *Matanzas, 24th October,* 1824.

SIR: I have the honour to inform you that, after leaving the convoy from Havana, I stretched in for this port, where I anchored on the evening of the 18th. On inquiry, I was informed no piracies had been recently committed in this vicinity. I, however, determined to despatch the boats secretly from the harbour, and examine the adjacent bays and inlets. On the night of the 19th, I placed them under command of Lieut. Hunter, and acting Lieut. Johnson, with orders to examine about point Yeacos, Sewappa bay, and Camrioca, places long notorious as a retreat for pirates. On the evening of the 22d, Lieut. Hunter returned with a piratical schooner of one carriage gun, one new American cutter, and two other boats; one, having three men on board, he captured in Sewappa bay. Every appearance justified the suspicion of piracy. The persons informed Lieut. Hunter their vessel had been taken by armed men; the boat they were in given in exchange, with a promise of returning in a few days and restoring their vessel. The next day, off Camrioca, Lieut. Hunter discovered a suspicious schooner standing to sea, in chase of a vessel in sight. On his approach, the schooner tacked, and made for the shore, closely pursued by the boats. The crew abandoned the vessel, and fled to the wood, where they were sought for in vain; she proved to be a pirate, mounting one gun, and small arms. From the number of nautical instruments, trunks of clothing, rigging, and sails, with three sets of American colours, found on board, she must have robbed several vessels. From stains of blood on the clothes, and other articles on board, I fear the unfortunate persons to whom they belonged, must have been murdered. No papers were discovered which could lead to the name of the vessel or vessels captured; several articles of clothing were marked "Captain Shaw," a number with the initials "A. S." A bag on board was lettered "brig Morning Star's letter bag." One waistcoat contained in the pocket a printed card, "Mr. M. Loris's boarding house, Charleston, South Carolina," and appeared to have been newly printed. A medicine chest on board was put up in New York. I have delivered the prisoners to the Governor of Matanzas, and shall furnish him all the testimony in my power which can throw light on their character. The schooner I sent out last night, under command of acting Lieutenant Brown in hopes of decoying some of her former comrades. I sail with convoy to-morrow, and after joining the prise at sea, shall proceed to Thompson's Island for supplies, and return to the protection of commerce on this coast. I trust, sir, should the prize be sufficiently fortunate to meet with pirates, I shall have the pleasure to give a satisfactory account of them.

I do myself the honour to enclose the correspondence relative to the capture of the vessels and prisoners.

I have the honour to be, respectfully, sir, your ob't servant,

CH. W. SKINNER.

To the Hon. SAMUEL L. SOUTHARD, *Sec'y of the Navy, Washington City.*

U. S. SHIP JOHN ADAMS, *Thompson's Island, Dec. 22nd*, 1824.

SIR: You will proceed to Havana, where you will complete your provisions and stores, offer convoy to vessels bound into the Gulf of Mexico, and then proceed to the coast of Yucatan, run down to Campeachy, there offer convoy and protection, and from thence proceed to Alvarado, La Vera Cruz, and Tampico, remaining in the neighbourhood of those places about six weeks, giving protection to our commerce, and governing yourself in all your proceedings, by my General Instructions of the 26th of February, 1823.

If, in the course of your stay in the Gulf, our merchants should have specie to transport from one port or place, or to the United States, you will take it on board on the usual freight; taking special care that nothing like illicit shipments are made, and that nothing in the shape of public advertisements appear, or that any thing is done that may be liable to misconstruction, or give rise to unfriendly comments; and above all, that your vessel is not made an object of commercial speculation and enterprize. Nothing in the shape of merchandize must be taken on board, except under the circumstances provided for by the Act for the better government of the Navy. Let all your proceedings in these respects be open—make known frankly to the authorities of the place your objects, and let your conduct be such as to remove all suspicions.

In the transportation of specie, an object of great importance to our country, we have a delicate duty to perform, and one which many believe is not obligatory on us. Confine yourself, however, strictly to your orders, and no remarks, whether publicly or privately made, need cause you pain.

After receiving the specie on board, proceed with the convoy, if any, to Havana, where you will await for further orders.

Respectfully, your obedient servant,

D. PORTER.

Lieut. Commandant CHAS. W. SKINNER, *U. S. schooner Porpoise.*

U. S. SHIP JOHN ADAMS, *Norfolk, Jan. 25th*, 1824.

SIR: When the U. S. schooner Porpoise shall have obtained a new crew, and received the necessary repairs, you will proceed with her to the coast of Africa, continuing along the coast in the usual track of slave-trading vessels, in pursuance of the general cruising instructions, and the acts of Congress for the suppression of the slave trade and capture of piratical vessels; copies of which, and of the laws relative thereto, you have enclosed.

While on the coast you will touch at the American settlement of free coloured people; communicate with the agent of the Colonization Society; ascertain the state and condition of the colony—giving it such aid, assistance and protection, as it may stand in need of, and be in your power to furnish.

From thence, you will proceed to the coast of Guinea, and thence in the route usually traversed by vessels with slaves, which is mostly north of the Antilles and the Keys to Cuba. You will, in your route, touch occasionally at some of the islands of the West Indies, to obtain news of piratical vessels; proceed to Matanzas, fill your water, and repair to Thompson's Island, where you will receive my further orders.

Wishing you a pleasant and successful cruise, I am, with great respect, your obedient servant, D. PORTER.

Lieut. Comd't SKINNER.

U. S. GALLIOT SEA GULL, *Havana, Jan. 23d*, 1825.

SIR: On your return to this place, from the Gulf of Mexico, should you have upwards of one hundred thousand dollars on board, for the United States, you will proceed with it to the most convenient port, land it, take in the necessary supplies for your vessel, and return to Thompson's Island.

Should you not have so large an amount on board, you will, after landing it here, proceed to Thompson's Island for further orders.

Very respectfully, (Signed) D. PORTER.

Lieut. Comdt. C. SKINNER, *U. S. schooner Porpoise.*

SEA GULL, *Port Rodgers, June 12th*, 1823.

SIR: You will receive herewith eleven letters from the Captain General of Cuba, to the military governors Taraco, Bayamor, Gilaca, Batabano, Puerto Principe, Jaqua, Baracoa, Hulquin, St. Juan de los Remedios, Trinidad and Cuba, and one from me to the Admiral at Jamaica.

You will proceed with the United States schooner Beagle to deliver the abovementioned letters, and, at the same time, keep in view the suppression of piracy.

It is my intention, on your return to this place, which must be within two months, to send your vessel to the United States. You will, therefore, take on board such sums of money, as merchants may wish to ship in her, and on such terms of freight as you may think proper to establish with them.

Very respectfully, your obedient servant,

(Signed) D. PORTER.

Lieut. Comdt. JOHN T. NEWTON.

SEA GULL, *Port Rodgers, Sept. 1*, 1823.

SIR: On your way to the United States, you will touch at Havana, and deliver the accompanying letters, receive such letters as the merchants may wish to send by you, and should specie be offered by them for the United States, you will take it on board at the usual freight. Very respectfully, your obedient servant,

(Signed.) D. PORTER.

Lieut. Comd't JOHN T. NEWTON.

U. S. SHIP JOHN ADAMS, *Jan.* 13, 1824.

SIR: You will proceed to sea with the U. S. brig Spark and schooner Weazle, under your command, touch at St. Bartholomews and St. Thomas's for information; run down the south side of Porto Rico, examine the Mona passage and island of Mona—continue down the south side of St. Domingo, keeping well in shore; and from thence, down the old Straights of Bahama to Matanzas, where you will land Dr. Anderson.

There have been two armed vessels carried off by their crews lately, one a ship from St. Bartholomews, belonging to the Colombian Government, the other a brig, belonging to Porto Rico, and they have both turned pirates.

The ship was called the Oronoke, formerly commanded by a Captain Nutter, but ran away with by the Boatswain's mate, (Wilson, an Englishman, with black hair and whiskers, grey eyes, and a long narrow face,) and sixty of her crew.

Part of the officers were forcibly carried off and probably murdered. She is a black ship with a yellow streak, American sharp built, shews sixteen guns—low in the water, and sails fast; mast head and spars painted white.

The brig was called the Scipio, and was carrried off by sixty of her crew, from Margagues, Porto Rico. It is said she has plundered several vessels in the Mona passage.

Two small piratical vessels, sloop rigged, with pivot guns, have lately plundered the brig William Henry, Capt. Lester, at the Island of Mona, where it is stated there is an establishment formed, by the piratical population from Porto Rico, and it has been suggested, that it would be the most certain means of capturing and destroying them, to take possession of and destroy all the boats that can be found there, and thus cutting off their retreat; of this, you can better decide, when you get there.

It is said they are well armed, and supplied with provisions and ammunition. It is not improbable, that you will find plunder deposited there: there is good anchorage on the west side.

After you leave St. Domingo, send the Weazle to Jamaica, with the inclosed letter, for Commodore Sir Edward Owen; from thence, around the West end of Cuba to Thompson's Island, to fill up your provisions; run down the coast of Yucatan, touch at Campeachy, and there offer protection and convoy to our vessels.

After executing these orders, you will then govern yourself by No. 2, herein inclosed.

Very respectfully, your obedient servant,

(Signed,) D. PORTER.

Lieut. Comd't JOHN T. NEWTON, *U. S. brig Spark.*

U. S. SHIP JOHN ADAMS, *January* 13, 1824.

SIR: On your arrival at Campeachy, and after obeying my orders No. 1 of this date, you will proceed to Alvarado, Tampico, and La Vera Cruz, at one of which places you will in all probability find

the U. S. sch. Shark, Lt. Com. Stevens, who is there for the purpose of protecting the commerce of the United States, and giving conveyance to specie to this country.

You will open a correspondence with two of the agents of the Bank of the United States now in Mexico, Messrs. Andrews and Crawford, and regulate your movements so as to receive on board your vessel such sums of money in any of the ports of Mexico in the Gulf as they may designate. The money to be received on deck, and in parcels, of not less than one thousand dollars, put up in good substantial boxes, barrels, kegs, or skins.

The money received from them is not to include any other than what belongs to the Bank of the United States, except on the usual terms of freight. All consignments, therefore, to the Bank, and not the property of the Bank, are to be taken on the terms usually given by merchants, and you will take the British rule for your guide.

When you shall have completed your freight, you will repair to Thompson's Island for further instructions. It is presumed that you will not find it necessary to remain in the Gulf more than six weeks, and I shall endeavour to send a vessel to relieve you about the 1st of May next.

I have read to you the instructions of the Hon. Secretary of the Navy, relative to transportation of treasures. I have no apprehension that you will go beyond the authority given, it is therefore needless to make any further communication to you on the subject. I will merely remark, however, that none of the vessels of war under my command must, on any account whatever, and under any inducement, be used for the purposes of commercial adventure. You can carry the treasures of our citizens from one port or place to another, and you can take it to the United States; but nothing in the shape of public advertisements must appear, and in all your intercourse with the authorities of the places you may visit, make frank acknowledgments of the motives which brought you there. Let all your transactions in this respect be open and not liable to misapprehension. Nothing whatever in the shape of clandestine shipments must be countenanced.

For the information of the Government, you will, on joining me, report to me the amount of treasures on board your vessel, where taken from, where destined, and the circumstances, terms and conditions, on which you have taken them.

Should I leave Thompson's Island before your arrival there, I shall leave orders for you. Should I send one of the small schooners to assist in the performance of your duties, you will enjoin on her commander the precautions to be observed in taking on board specie.

During your stay in the Gulf, as well as on your passage out and home, you will seek every occasion to give protection to the persons and property of the citizens of the United States.

Wishing you a pleasant and a profitable voyage, I am, sir, very respectfully, your obedient servant,

(Signed,) D. PORTER.

Lt. Com. JNO. T. NEWTON, *U. S. Brig Spark.*

WASHINGTON, *July 12th*, 1824.

SIR: Understanding, from information communicated to me by the Secretary of the Navy, that the brig Spark, under your command, has arrived at the quarantine ground, New-York, you are hereby required to have her got in readiness for sea as soon as practicable, and it is hoped she will be ready to sail about the middle of August. Very respectfully, your obedient servant,

(Signed,) D. PORTER.

Lieut. Com. JNO. T. NEWTON.

U. S. SHIP JOHN ADAMS, *April 27th*, 1824.

SIR: After landing what money you may have on board for Havana, you will proceed to New-York, with such as you may have in for the United States, and as soon after the delivery of the same as possible, you will return to Thompson's Island, touching on your way at St. Barts, St. Thomas, and Matanzas. Should you find no orders here, you will proceed to the Gulf of Mexico, and act in conformity with the course prescribed to you in my letter of January 13th, 1824, No. 2. Very respectfully, your obedient servant,

(Signed,) D. PORTER.

Lieut. Com. JNO. T. NEWTON.

U. S. SHIP PEACOCK, *Allenton, April 12th*, 1823.

SIR: The two schooners, the Terrier and Ferret, are to be got ready for sea as soon as possible, and so soon as Captain Cassin returns from his cruise, you will proceed with them to Cape Antonio, and remain in the neighbourhood of that place, until a renewal of your supplies makes your return here necessary.

Very respectfully, your obedient servant,

(Signed) D. PORTER.

Lieut. Comd't R. M. ROSE, *U. S. Navy.*

U. S. S. GALLIOT SEA GULL, *Matanzas, May 4th*, 1823.

SIR: You will proceed to sea with the two schooners, and give convoy as far as the Double Headed Shot Keys, if necessary, thence to Key Sal, then across to the Keys to the windward of Point Yeacos, down the coast of Cuba to Cape Antonio around to Trinidada, on the south side, and if your provisions will hold out, and there should be no necessity for your continuance in that neighbourhood, you will make the circuit of Cuba, returning to Thompson's Island by the

way of the old Straights of Bahama, giving every suspicious place a thorough examination. With great respect, your obedient serv't

(Signed) D. PORTER.

Lieut. Comd't R. M. Rose.

Lieutenant Commandant R. M. Rose:

There has been a report of piracy at or near Keytaca. Captain Rose will proceed there and ascertain the grounds of the report, taking with him the Midge under the command of Lieut. Boughen, and act according to circumstances.

It will be desirable to proceed to-night or to-morrow morning early, and to work up inside the reef.

(Signed,) D. PORTER.

Sea Gull, *Port Rodgers, June* 18, 1823.

Sea Gull, *Allenton, July* 1, 1823.

Sir: You will proceed to Havana, land the two Spaniards, deliver to the Captain General the accompanying package, and offer to bring over any claimant of the detained property who may wish to come.

You will place the letter bag of the Terrier in the Counting House of Messrs. Castillo, Black, & Co. informing them you will leave there, for the United States, on the 15th of July.

You will there offer convoy; proceed to Matanzas, leave a letter bag with Messrs. Latting & Co. informing them you will sail on the 12th.

You will offer convoy from Matanzas; take in specie; return to Havana; take in specie from there, and return here for further orders, leaving Havana on the 15th of July.

With great respect, your obedient servant,

(Signed,) D. PORTER.

Lieut. Comd't R. M. Rose.

Sea Gull, *Port Rodgers, July* 13*th*, 1823.

(*Extract.*)

Sir: You will proceed to prepare the Weazel for a cruise, with all despatch. (Signed) D. PORTER.

Lieut. Comdt. Beverly Kennon.

Sea Gull, *Port Rodgers, July* 19, 1823.

Sir: When the Weazel shall be ready for sea, you will proceed to cruise for two weeks on the coast of Cuba between Havana and Cape Antonio, at the expiration of which time, you will return to this place. Very respectfully, your obedient servant,

(Signed) D. PORTER.

Lieut. Comdt. B. Kennon.

Sea Gull, *Port Rodgers, July* 25, 1823.

Sir: I have directed Lieut Comdt. Ritchie, who is cruising off Havana, to place himself and vessel under your command.

You can exercise, your own discretion, whether to cruise to leeward or to windward of Havana.

It is my intention to send you home, and that you shall leave Havana for this place on the 15th of August. You can, therefore, leave a letter bag with Messrs. Castillo, Black and Co. calling for it on your return from your cruise, and taking on board specie, if any offers, for the United States, at 2 1-2 per cent. freight.

From Havana, you will proceed here for further orders.

Very respectfully, your obedient servant,

(Signed) D. PORTER.

Lieut. Comdt. B. KENNON.

SEA GULL, *Port Rodgers, August* 14, 1823.

SIR: You will proceed to Washington City with the United States' schooner Weazel, reporting her arrival to the Honourable Secretary of the Navy, for such changes in the officers as may be necessary, and to fill up the crew—those being the objects of sending her home. When the necessary changes have been completed, she is to return to this place by the way of Crooked Island, or Caucus Passages, running down the Old Straights of Bahama, touching at Baracoa and Matanzas, shewing yourself off Havana, and giving the whole coast a thorough examination.

It is extremely desirable, that no unnecessary delay should take place in the United States, as the services of the Weazel will be wanted, and any delay will prevent my carrying into effect the arrangement of the periodical sailing of vessels from here.

I should presume that the vessel might leave the United States to return to her station, in one week, from the time of her arrival; and, if you leave her, whoever may be your successor, I wish you to impress this on his mind, giving him a copy of this order.

In case you resign the command, there is no absolute necessity, should any difficulty occur, in sending a commander in her, as Mr. Randolph can bring her out, and the command can then be given to one of the old Lieutenants on the station, some of whom are entitled to her.

With the assurances that it will ever afford me pleasure to be associated with you on duty, please to accept my best wishes for a speedy and pleasant passage, and a happy sight of your friends.

Very respectfully, your obed't serv't, (Signed) D. PORTER.

Lieut. Comdt. BEVERLY KENNON.

NAVY DEPARTMENT, *7th Dec.* 1822.

SIR: Soon as the U. S. schooner Grampus shall be completely equipped for sea, proceed direct to the Havana, and resume your former cruise about the Island of Cuba, for the suppression of piracies, under your former instructions. John Warner, Esq. Consul for the port of Havana, has permission to embark on board, to be landed at Havana. I am, respectfully, &c.

(Signed,) SMITH THOMPSON.

Lt. Com. F. H. GREGORY, *Comm'g U. S. Sch. Grampus, N. York.*

U. S. GALLIOT SEA GULL, *Allenton, May 16th*, 1823.

SIR: So soon as you receive this, you will repair to this place, where the services of the Grampus are much wanting.

Very respectfully, your ob't serv't,

(Signed,) D. PORTER.

Lt. Com. F. H. GREGORY.

SEA GULL, *Port Rodgers, June 13th*, 1823.

SIR: So soon as the Grampus shall be ready for sea, you will proceed to Matanzas, taking with you the barge Gnat, for the purpose of giving to our commerce there all the protection in your power against piracy, until you are relieved.

It will be well to visit occasionally the bye places between Point Eycaco, Cayo Blanco, and Havana, if you can do so without leaving our merchant vessels unprotected.

You will be governed in the performance of your duties by my general instructions of the 26th of February.

Very respectfully, your obedient servant,

(Signed,) D. PORTER.

Lt. Com. F. H. GREGORY.

Lieutenant Commandant Gregory to Commodore Porter.

U. S. SCHOONER GRAMPUS, *Thompson's Island, July 3rd*, 1823.

SIR: I have the honour to inform you, that this vessel sailed from the Balize, on the 24th of April, with a convoy for Tolasco, where she arrived on the 1st of May. Sailed thence again on the 6th, with convoy, towards Vera Cruz; parted with the convoy on the 9th, and arrived at Campeachy on the 13th, where I received information of several piracies committed upon the merchant vessels of the United States; and that the coast of Yucatan, from Cape Catouche to Lagona, was then infested by several gangs of pirates, who had been guilty of every atrocity imaginable. Finding there were a very considerable number of merchant ships at the several ports upon that coast, unprotected, and others arriving almost daily, I continued thereabouts until the 25th of June, scouring the coast up and down; and, occasionally, when any information was had, which offered the least chance of detecting those villians, the boats were employed, and sometimes were sent along the coast twenty and thirty leagues from the vessel. On the 22nd of May, I chased a schooner ashore to windward of Sisal, which I have no doubt, was a pirate, from his appearance and conduct; as it was in the night, and upon a part of the coast where I was not sufficiently acquainted, and blowing fresh upon the shore, I had not an opportunity of completing his destruction. On the 11th of June, I seized a suspicious vessel in the harbour of Campeachy, and resigned her to the authorities there, on that account. This last vessel had just come from New Malaga, or Vigia de Chiguila, a little to the windward of Cape Catouche, where the pirates have a very considerable establishment, and came down to Campeachy for the purpose of procuring

for a vessel then preparing for a cruise. Two seamen, who een held as prisoners at New Malaga, informed me that this were sometimes a hundred and upwards in number; that they possession of a small fort, having two twenty-four pounders; hat an officer, named Molla, who had been placed there by the nment, had joined them. This was corroborated by the au- ies at Campeachy, who requested me to land and destroy the The pirates issue from their post in barges, small vessels, canoes, hover along the shores, enter the harbours, murder stroy almost all that fall in their power. On the 2d of June, merican schooner Shibbolit, Captain Perry, of New-York, be- en ready for sea, was boarded by a canoe, having fourteen of villians on board; the watch was instantly murdered, eight of the crew were put in the forecastle, the hatch spiked a ton or more of log-wood put over it, the head sails set, the off shore, and fire put to the vessel in the cabin. By the most rdinary exertions, these men broke out in time to save their I arrived while the vessel was burning down. The same canoe proceeded to windward, and two days afterwards, took the ner Augustus and John, off Sisal, and burnt her, having turned ew adrift in a small boat, with every probability of their per- The people of the country were much exasperated, and l out to hunt them from their shores.

arty of dragoons having met them, a skirmish ensued, where- captain of dragoons, and several of his men, were killed, and rates, taking to their boats, escaped. One of the seamen I ined as having been amongst them, stated, that he belonged to glish schooner from New Providence, called the Flyer; that ew, with the exception of himself, were instantly butchered. as detained by them about two months, during which time they aptured nine vessels, some of which were brought in, but the pal part destroyed; and, in some instances, he was certain that ole crews were murdered When he left the place, (about days since) they had a Guineaman, with two hundred slaves, large quantity of ivory; two small schooners, Americans. n English cutter informed me, that the pirates had a direct ninterrupted intercourse with Havana, by means of small g vessels that ran regularly to the ports on the coast, and al- ouched at New Malaga. Frequently, some of them would go the Havana, and others of the gang come down.

t this infernal horde of villians have established themselves at Malaga, I have no doubt; and, from the information given me n of the first respectability at Campeachy, Sisal, and other on the coast, I believe the pirates have been guilty of all the herein stated.

ve the honour to be, very respectfully, your most ob't serv't,

FRANCIS H. GREGORY, *Lieut. Com. U. S. Navy.*

. DAVID PORTER, *Com. U. S. Naval Forces, West India Station.*

SEA GULL, *Port Rodgers, July 4th,* 1823.

SIR: You will proceed to or near Key Vacas, in search of an armed schooner called the Centilla, and sailing under the Colombian flag, which has lately captured and sent to that place several Spanish vessels, which have been perfectly wrecked there, and the cargoes sold.

On meeting said vessel, you will require her commander to come with her to this place, and should he refuse to do so, you will take possession of her, and bring her in. The Captain of the Centilla claims for her the character of a national vessel. It is therefore desirable that no violence should be used, if it is possible to avoid it, as I can have no disposition or wish to offer any insult whatever to the officers or flag of any nation in amity with the United States. But as the conduct of the officers and crew of the Centilla has been such as to produce doubts as to her real character, and as they have disregarded and violated the neutral character and laws of the United States, and by the wrecking on our coast, and selling of prizes before condemnation, committed piracy, the flag of Colombia must not protect them. The Centilla must be brought in here, and such of her crew and prizes as you may fall in with.

Force is only to be used in the last resort, and when every other means have failed. But if necessary, it must be used until she submit.

Lieut. Rodgers, of the Marines, can give you any information respecting her, and if you learn from that she has left the Coast, you will return to this place.

Very respectfully, your obedient servant,

(Signed,) D. PORTER,

Commanding U. S. Naval forces in the West Indies and Gulf of Mexico.

Lieut. Com. F. H. GREGORY, *Comm'g U. S. Sch. Grampus.*

PORT RODGERS, *Thompson's Island, September 16th,* 1823.

SIR: On your arrival here, you will set all the carpenters you can muster, at work, on the house building for the marine officers; you will take the brig, fitting for an Hospital, and moor her carefully and securely at the upper part, and on the east side of the Harbour.

You will use for this purpose, one of the chain cables and anchors on shore (she has a chain and anchor on board) after which, you will please to finish her by laying her birth deck and laying a tier of cribs above and below on each side amidships, and finishing off with rough boards a snug cabin, for the commander and surgeon, and closing her in all around on the outside with the same, leaving sufficient openings for ventilators, and for hoisting things in by fore and main yards; then all the new work must be white washed.

The hull of the brig is to be painted pretty much as it is now: this will take you about a fortnight or three weeks.

The barges are, however, in the first place, to be hauled up and carefully housed, and Mr. Platt is to take care of all the barge-

men, until the arrival of the Hornet, when he will join her, with all of his officers and men.

After you have performed these duties, you will proceed to Campeachy, La Vera Cruz and Tampico, for the protection of our commerce, for six weeks or two months, and receive on board, all monies which may offer you, the destination of which is to the United States. You will proceed to Norfolk with it, where you will report to me at Washington.

You will touch at this place on your way home, as there is a possibility of my being here again by that time.

While you are here, let your Surgeons give all the aid in their power. Very respectfully, your obedient servant,

D. PORTER.

Lieut. Comd't F. H. GREGORY.

U. S. SHIP JOHN ADAMS, *Thompson's Island, Jan. 28th*, 1824.

SIR: You will proceed down along the Colorados reef in search of the two barges, Gallinipper and Diabletta, as far as Cape Antonio, and should you meet them, you will deliver to the officer in command of them, the enclosed orders, for their return to this place, after which, you will return to Matanzas, for the purpose of giving protection to our commerce there, in conformity with my former instructions. Very respectfully,

(Signed) D. PORTER.

Lieut. Commandant McKEEVER.

WASHINGTON, *Aug. 11th*, 1824.

SIR: As soon as the U. S. Steam Galliot Sea Gull shall have completed her repairs, and be in every respect ready for sea, you will proceed with her to New York, there to wait my further orders. Very respectfully, your obedient servant,

(Signed,) D. PORTER.

Lieut. Commandant ISAAC McKEEVER, *New York*.

WASHINGTON, *Oct. 20th*, 1824.

SIR: You will proceed with the U. S. Galliot Sea Gull, under your command, as speedily as possible, to Matanzas, for the protection of our commerce there, and thence to Thompson's Island, where you will report yourself to the senior officer on the station, for further instructions. Very respectfully,

(Signed,) D. PORTER.

Lieut. Commandant McKEEVER.

U. S. SHIP JOHN ADAMS, *Thompson's Island, Jan. 5th*, 1825.

SIR: You will leave Lieut. Bell in charge of the duties which have been assigned to you, in the neighbourhood of Matanzas, with the two small schooners and the barges, and you will proceed with the Sea Gull to this place, touching at Havana.

You will please to bring with you all the letters and newspapers for myself and the officers here, and if Col. John Mifflin of this place, and now at Havana, should wish to come over with you, I will thank you to give him a passage.

Very respectfully, your obedient servant,

(Signed,) D. PORTER.

Lieut. Comd't I. McKEEVER.

U. S. SHIP JOHN ADAMS, *January 13th*, 1824.

SIR: On receiving your provisions and water at Thompson's Island, after parting with the Spark, you will proceed to the Coast of Yucatan, running down the Coast from Cape Cartouche to Campeachy; look in at Campeachy; then proceed to Alvarado, La Vera Cruz, and Tampico, at one of which places you will find the U. S. brig Spark, Lieut. Com. Newton, who will be there for the purpose of giving protection to our commerce, and the conveyance of specie to the United States.

If it is found that you can be advantageously employed in these duties, Lieut. Com. Newton will be instructed to employ you there, and if not, to send you back to Thompson's Island.

Very respectfully, your obedient serv't, D. PORTER.

Lieut. Com. JOHN P. ZANTZINGER, *U. S. Sch. Weasel.*

WASHINGTON, *July 12th*, 1824.

SIR: I have received your communication of the 12th, which is satisfactory.

There is an absolute necessity for your return to the West Indies immediately. Your orders will therefore be issued to-morrow.

Very respectfully, your obedient servant, D. PORTER.

Lieut. Com. JOHN P. ZANTZINGER.

WASHINGTON, *July 14th*, 1824.

SIR: You will proceed to the West Indies, touching at St. Bartholomews, St. Thomas, and running down the south side of Porto Rico and Cuba, touching, if necessary, at Jamaica, examining for pirates, and offering convoy and protection to the property and persons of our citizens, according to my general instructions.

You will then proceed around Cape Antonio to Thompson's Island, where you will fill up your provisions, and proceed thence to the port of Havana, and offer convoy to the Gulf of Mexico, running down the Coast of Yucatan, touching at Campeachy, Alvarado, La Vera Cruz, and Tampico, giving all the protection in your power to our commerce.

If, in the course of your cruise, our citizens should wish specie carried from one port or place to another, you can take it on board under the restrictions formerly laid down to you, and on your arrival in the Gulf, if there should be any considerable quantity to be taken to New-Orleans, you can proceed there with it under like in-

structions. If it should be the opinion of the merchants at New Orleans, or the commanding naval officer, that the Weazel can be usefully employed between Tampico and that port, you can remain there six months, reporting to me from time to time; but if not, you will return with specie to the United States, touching at Havana and Thompson's Island for orders.

In the whole of your cruise, do not lose sight of the main object, the protection of the property and persons of our fellow citizens. Very respectfully, your obedient servant,

(Signed,) D. PORTER.

Lieut. Com. Jno. P. Zantzinger.

Sea Gull, *Port Rodgers, August* 10, 1823.

Sir: You will proceed with the U. S. Brig Spark, under your command, off Havana, where you will offer convoy, and after the vessels shall be well off from the land, you will run down, examining the Coast to Cape Antonio, thence around the south side of Cuba to the Isle of Pines and Trinidad, where you will offer protection and convoy.

Should there be information of pirates in that neighbourhood that will, in your opinion, make your stay there necessary, you will continue to cruise about there for a reasonable length of time; you then will proceed to windward, examining the coast to Cape Cruz, where it is probable there are pirates of which Lt. Com. Kearney will give you particular information. These you will endeavour to capture, and put to route, giving the place a thorough examination.

From Cape Cruz proceed to St. Jago de Cuba, and there offer protection and convoy, remaining in the neighbourhood of the place, as long as in your judgment your presence may be required.

From thence continue your cruise to the east around Cape Mayzi, thence down the north coast to Baracoa, there offering protection and convoy, and exercising your judgment, as to the period of your stay about there.

Continue to examine the coast from thence down to Matanzas, through the Old Straights. At Matanzas you will, if necessary, fill up your water and offer convoy, then proceed off Havana, offer convoy, and return to this place.

Throughout your course you will endeavour by every means in your power to preserve the health of your crew, by avoiding infected places, by great attention to their comfort and cleanliness, and by preventing unnecessary exposure.

The object of the course being the suppression of piracy and the slave trade, reference as your guide in the performance of these duties, is to be had to my general instructions, of the 26th February last. Very respectfully, your obedient servant,

(Singed,) D. PORTER.

Lt. Com. E. R. Shubrick, *Brig Spark.*

WASHINGTON, *October* 29, 1823.

SIR: When you shall have performed the duties required of you, by my instructions of the you will proceed to the coast of Yucatan, running down toward Campeachy, thence to La Vera Cruz and Tampico, giving such protection as may be in your power to the commerce and citizens of the United States, against unlawful interruptions.

Should merchants and others have specie to transport to the United States, you will take it on board, proceed to the port most convenient for their purpose, touching on your way at Thompson's Island, Havana and Matanzos, for orders; and, in the event of not receiving any, you will, after landing your specie, return to Matanzas, with all practicable despatch, to receive my further instructions. Very respectfully,

(Signed) D. PORTER

Lieut. Comdt. E. R. SHUBRICK, *Brig Spark.*

WASHINGTON, *August* 11*th*, 1824.

SIR: So soon as the U. S. schooner Ferret shall be in every respect ready for sea, you will proceed to the West Indies, running down through the islands, to ascertain whether our commerce requires protection: and if, in the course of your route, you should find protection necessary, you will afford it as far as your means will allow, governing yourself strictly in this respect, by the general cruising instructions, and the orders of your predecessor.

You will run down the south side of Cuba, touching at St. Jago and Trinidad, examining the intermediate places, and then go round Cape Antonio, to Thompson's Island, where you will report to the senior officer there, for further instructions.

At every place you touch, offer your vessel for convoy and protection. Very respectfully, your obedient servant,

(Signed) D. PORTER.

Lieut. Comdt. T. H. BELL.

WASHINGTON, *August* 12*th*, 1824.

SIR: So soon as the United States schooner Ferret, under your command, shall be ready for sea, you will repair to Thompson's Island, and report yourself to the commanding officer there, for further duty. On your way to the island, you will touch at Matanzas, and afford such protection to our commerce there, as may be necessary. In the suppression of piracy, and the slave trade; in the protection of the persons and property of citizens of the United States; and in your intercourse with foreign officers, you will be governed by my general cruising instructions and other orders which you will receive from acting Lieutenant Farragut.

Very respectfully, your obedient servant, D. PORTER.

Lieut. Comdt. T. H. BELL.

U. S. Ship John Adams, *Thompson's Island, Jan. 5th*, 1825.

Sir: With the two schooners Ferret and Terrier, and the barges Musquitoe and Diabletta, you will take charge of the protection of the commerce of Matanzas, and the suppression of piracy in that neighbourhood, until further orders—my general instructions of the 182 will be your guide in all cases, where they can be applied.

You will call on Lating, Adams and Co. for such occasional and indispensable supplies as may be required for the vessel.

Very respectfully, your obedient servant,

(Signed) D. PORTER.

Lieut. Comdt. Bell.

(*Extract.*) Washington, 21*st December*, 1822.

Sir: You will proceed to Norfolk with the eight schooners purchased for the suppression of piracy, and deliver them to the commandant of the Navy Yard, to be manned and equipped.

As I have explained to you my ideas, generally, as to the manner of equipping these vessels, I shall refer Captain Warrington to you for information, time not allowing of my going into detail. They will each have on board three lieutenants, three midshipmen, a surgeon's mate, and 24 petty officers, seamen, and marines, and boys; therefore, accommodation must be procured for that number.

(Signed) D. PORTER.

Directed to Lieut. J. Newell, *U. S. Navy.*

Norfolk, *February 8th*, 1823.

Sir: When the two schooners, of which you have the charge, shall be prepared with the barges, &c. you will proceed with them to Thompson's Island, and there land their cargoes, after which, you will place the barges in a condition for service, and await my arrival. The schooner hired by the month, you will keep with you, the other you will discharge as soon as possible.

In landing the materials for building, you will consult, as far as practicable, our ultimate convenience. Midshipmen Morehead, who will go out with you, has been some time on the Island, and can give you much useful information relative thereto.

The circuitous route which I shall take with the squadron, will prevent, in all probability, my arriving so soon as yourself. You will therefore have an opportunity of making yourself well acquainted with the harbour and navigation; and you will please to place buoys of casks to point out the deepest water, keeping a look out for me in the offing, in order that you may give me your aid in taking the vessels to the best anchorage.

Wishing you a pleasant passage and safe arrival, I am with much respect, your obedient servant,

(Signed) D. PORTER.

Lieut. Thos. Newell.

U. S. Ship Peacock, *Allenton, April 10th*, 1823.

Sir: So soon as the schooner Mary, now called the Trap, shall be ready for sea with her provisions and stores, you will take on board a detachment of marines, and stretch over to the coast of Cuba, throwing yourself in the way of open boats from the shore, and making your way slowly down toward Cape Antonio, where I shall expect to find you after I have visited with the steam vessel and barges, the coast to windward of Matanzas.

There is anchorage under the lee of the Cape, and at Cape Conantas; and as I shall depend on you for my provisions and coal, it will be best for you to anchor at one of those places—but be careful to guard against a surprise, and also to conceal your force.

Accompanying this, you will receive a set of general instructions for your government.

Very respectfully, your obedient servant,

(Signed) D. PORTER.

Lieut. Commandant Thos. Newall, *U. S. Schooner Trap.*

Sea Gull, *Port Rodgers, June 12th*, 1823.

Sir: You will proceed with the schooner Ferret under your command, to the south side of Cuba, to give protection to our commerce in that quarter; and when your provisions shall have been expended, you will return to this place.

It is my intention to send you to the United States—soon after your return; you can therefore take on board any sum of money which merchants may have to ship, and on such terms of freight as you can agree on. Very respectfully, your obedient servant,

(Signed) D. PORTER.

Lieut. Commandant T. M. Newell.

Lieut. Com. Newell to Commodore Porter.

U. S. Sch. Ferret, *Thompson's Island, June 25th*, 1823.

Sir: Pursuant to your instructions, I left this place on the 14th inst. on a cruise to Trinidad, on the south side of Cuba, in company with the Beagle, Captain Newton. On the second day we parted company, and on the third day I made the Havana, (on my way to Matanzas,) from thence I commenced a diligent search in all the by ports and bays. On Tuesday sent my boat into Canised, and obtained information that some pirates were still lurking about the coast; during that night, I kept close in with the land, and on Wednesday, at 10 A. M. discovered an armed barge, with 16 oars, and well manned, in a small bay, called Bacuna Yeauga; I immediately sent Lieut. Dorning, with five men, the most my boat could carry, to examine all the boats, there being seven in number. He approached within fifty yards of the barge, when the crew shew their character, by opening a fire on him, with musquetry and blunderbusses, which, fortunately, did no other damage than nearly to sink the boat, she having received a ball at the water edge—five other ones were found in the boat, which, being nearly spent, had struck the water, and innocently jumped into her. My boat, at no

time suitable for the transportation of men, and now rendered useless, induced me to take possession of a small coaster that was near, and manned her with fifteen men, and at that time intended to stand in, if possible, with the Ferret, in order to cover the men while they took possession of the barge, which then had the American colours, union down; but, on approaching, found that the channel would not admit of my entering. It then blowing very hard, and a heavy sea on, I deemed it proper to recall the coaster, which had like to have gotten ashore: for, had that catastrophe occurred, I question much whether the pirates would have had the gratification of butchering them, as they certainly would have been drowned.—The sea was then breaking with great violence over the reef that covered the bay. I was then compelled to resort to making tacks, close in with the reef, and giving them long tom, with round and grape, in hopes to destroy the boats—as to killing any of them, it was impossible: for, on the approach of the Ferret, they would completely secure themselves behind the rocks and trees, which hung all around the harbour; but this I was frustrated in, by the enormous roughness of the sea; and, the wind being on shore, prevented me from taking any position, from which I could annoy them much. Finding it impossible to do any thing, with the means then in my power, I stood out to sea, in hopes to fall in with some vessel from which I could get a suitable boat, (but I am sorry to say, that it was not until next morning that my wishes were obtained,) and, if that could not be done, to push to Matanzas, to concert a plan with the Governor, by which the pirates, as well as their boats, may be taken. I, however, obtained a boat from an English vessel, and immediately bore up for the same place, which was then but a short distance off. I had not run but a short time, when I discovered a Spanish brig of war lying too, off the bay, which proved to be the Matae. On the report being sent to the Governor of Matanzas, that one of the U. S. Schooners was engaged with the pirates, he despatched this brig, and, at the same time took with him a land force, and had cruised there a few minutes before me, and had taken possession of a small sch. boat, the pirates had abandoned, and which lay on the beach. I sent in my boat after he had left, and ordered a search, when two of the boats I had seen the day I attacked them, were found, well sunk, up a Logoon, which, upon further examination, extended several miles into the Island, and have no doubt but that the large barge is now at the head of it; but, not being prepared with boats, I did not think it proper to send my boats out from the Ferret. The two boats I have brought over, and shall await your orders relative thereto.

On my arrival at Matanzas, I found my mainmast very dangerously sprung, which has made it necessary for me to return here, but not until I had given convoy to eight of our merchantmen from Matanzas and Havana.

I have the honour to be, sir, very respectfully, your obedient servant, THOMAS M. NEWELL.

Com. DAVID PORTER, *Commander of the U. S. Naval Forces, W. India station.*

SEA GULL, *Port Rodgers, July* 13, 1823.

SIR: After landing the persons you will take over at Havana, you will run down the coast to Artigasa to search for some cannon and ball left there by a pirate, which you will take on board if you find them.

You will then look in at Cayo Blanco, on the eastern part of the Colorados, and return to this place.

Very respectfully, your obedient servant,

(Signed,) D. PORTER.

Lieut. Comd't THOMAS M. NEWELL.

Lieutenant Commandant Newell to Commodore Porter.

U. S. SCHR. FERRET, *Port Rodgers, July* 23*rd*, 1823.

SIR: I have the honour to report to you that, after delivering the pirates at Havana, I cruized down the coast of Cuba to the windward, as far as Cayo Blanco, and examined every creek and harbour. After searching and diving for sometime at Artigos, (a small hidden river) I found the guns you alluded to in your instructions; also, a new gun carriage, calculated for a twenty-four pounder, was taken from the mangroves, where the pirates had carefully hidden it:—my vessel being so much lumbered up, I could not bring it; I therefore cut it up, and saved the irons; the guns taken are five in number—one long six pounder, one short do. one nine pounder carronade, and two long three's; the latter well mounted, and appear to have been very recently placed there.

I then returned to the Havana, and, on Sunday last, gave convoy to six Americans, and one Dahish ship

I have the honour to be, sir, very respectfully, your obedient servant, THOMAS M. NEWELL.

Com. D. PORTER,

Commanding U. S. Naval forces in the West Indies and Gulf of Mexico.

SEA GULL, *Port Rodgers, July* 24*th*, 1823.

SIR: You will proceed with the schooner Ferret under your command, to Havana, leave your letter bag at the Counting House of Messrs. Castillo, Black and Co.; offer convoy, continue cruizing in the neighbourhood, for the protection of our commerce, and should merchants or others wish to avail themselves of this opportunity, to send specie to the United States, you can take it on board at the usual freight, leaving Havana on the 1st of August, and returning to this place for further orders.

Very respectfully, your obedient servant,

(Signed,) D. PORTER.

Lieut. Comd't THOMAS M. NEWELL.

(*Extract.*)

SEA GULL, *Port Rodgers, August* 1, 1823.

SIR: You will proceed to Washington with the United States schooner Ferret, reporting her arrival to the Hon Secretary of the Navy, for such changes in the officers as may be necessary, and

up her crew, these being the objects of sending her home. the necessary changes have been completed, she is to return s place by the way of Crooked Island, or Caucus Passages, ng down the old Straights of Bahama, touching at Baracoa and zas, showing yourself off Havana, and giving the whole coast ough examination

extremely desirable that no unnecessary delay should take in the United States, as the services of the Ferret will be l, and any unnecessary delay will prevent my carrying into the arrangements of the periodical sailing of vessels from

(Signed,) D. PORTER.

ted to Lieut. Comd't THOMAS M. NEWELL.

(*Extract.*)

SEA GULL, *Port Rodgers, July* 19, 1823.

You will proceed to Havana to give protection to our com- ; and you will communicate with Messrs. Castillo & Black day.

ld they have any communications for me, you will lose no conveying them to this place.

(Signed,) D. PORTER.

ted to Lieut. Com. JNO. T. RITCHIE.

SEA GULL, *Port Rodgers, July 25th,* 1823.

You will place yourself and vessel under the command of Com. Kennon. Very respectfully, your obedient servant,

D. PORTER.

t. Com. JNO. RITCHIE, *Schooner Fox.*

SEA GULL. *Port Rodgers, August* 8, 1823.

You will proceed to Havana with the U. S. schooner FOX, ace yourself under the command of Captain Sidney Smith. ld Captain Smith have left Havana, you will proceed with sible despatch to a place called New Malaga, near Cape Ca- , on the Coast of Yucatan, where it is said there is a pirati- ablishment ; and in the event of your not finding Captain here, you will proceed to obtain all the information in your with regard to said establishment, and return to this place possible despatch.

will endeavour to ascertain whether a British force has gone it, how far it has extended its operations, and whether suc- or otherwise. Very respectfully, your obedient servant,

(Signed,) D. PORTER.

. Com. J. T. RITCHIE.

Lieutenant Commandant Ritchie to Commodore Porter.

U. S. SCHOONER FOX, *29th of August,* 1823.

In compliance with your instructions, of the 8th ultimo, I led to the coast of Yucatan, to ascertain the situation of a pi- stablishment, said to be there. On the 14th, I arrived off

possible, in order that persons requiring your protection may be enabled to make their arrangements accordingly.

You will make all your requisitions, and receive all your supplies of provisions in New Orleans, and report yourself at every arrival and departure to the commanding officer there, and you will seek every opportunity of communicating with me.

You will return to this place by the first of October, unless otherwise instructed, and you may touch at Havana before coming here, for the purpose of landing specie.

I have read to you the instructions of the honourable Secretary of the Navy, relative to the transportation of treasures;—I have no apprehensions that you will go beyond the authority given—it is therefore needless to make any further communication to you on the subject. I will merely remark, however, that none of the vessels of war under my command, must on any account, whatever, and under any inducement, be used for the purposes of commercial adventure.

You can carry the treasures of our citizens from one port or place to another, and you can take it to the United States; but nothing in the shape of public advertisements must appear, and in all your intercourse with the authorities of the places you may visit, make frank acknowledgments of the motives which brought you there. Let all your transactions in this respect be open, and not liable to misapprehension. Nothing, whatever, in the shape of clandestine shipments must be countenanced.

For the information of the government, you will, on joining me, report to me the amount of treasures which you have on board your vessel, where taken from, where destined, and the circumstances, terms, and conditions on which you have taken them.

During your stay in the Gulf, as well as on your passage out and home, you will seek every occasion to give protection to the persons and property of the citizens of the United States.

Wishing you a pleasant and a profitable cruize, I am, sir, very respectfully, your obedient servant,

(Signed) D. PORTER.

To Lieut. Commandant JOHN T. RITCHIE.

WASHINGTON, *October 14th*, 1824.

SIR: I have received your several communications respecting the schooner Fox, under your command.

She is to be got in readiness for sea with the least possible delay; and when ready, you will report to me.

Very respectfully, (Signed) D. PORTER.

Lieut. Comdt. J. RITCHIE.

WASHINGTON, *October* 27, 1823.

SIR: You will proceed to Matanzas, in the Island of Cuba, with the schooner Beagle, and there join the Wild Cat, which you will

find there. With these two vessels, you will give such protection as may be in your power, against pirates, to the commerce of the United States, and to the vessels of all nations requiring it.

You will receive your supplies of all kinds from Thompson's Island. You are to be governed in your operations by my general instructions of the 26th of February.

Very respectfully, your obedient servant,

(Signed) D. PORTER.

Lieut. Comdt. Jos. Cross.

U. S. Schr. Weazel, *Alvarado, Dec. 5th*, 1824.

Sir: I sailed from Thompson's Island on the 17th of September, for Havana, off which port I fell in with and convoyed in the American brig Herald of Boston. After watering, sailed for Campeachy giving convoy to three American schooners—(the Daet, Commerce, and Superior,) to the Bank; arrived there 27th September, and sailed on the 29th for Alvarado. On the 6th of October, a little to the east of Alvarado, spoke the U. S. schr. Shark, Capt. Gallagher; received instructions to stand for and anchor at Sacrifice, for the purpose of taking on board Mr. Taylor, American Consul, (then on board the Shark) and returning with him to Alvarado. In riding out a norther at Sacrifice, I parted my hemp cable, and was unable to find the anchor. I have been under the necessity of purchasing a cable and anchor in this port. Sailed from Vera Cruz on the 9th, and arrived here on the 10th. On my arrival, received a letter from the American Consul, giving an account of the capture of the American brig Cato, by the pirates, and the schooner Leader's wanting protection at Tabasco; a copy of which letter is enclosed, and marked A. I was compelled to remain a few days in port, to repair my sails, and procure an anchor and cable; which being done, I sailed on the 19th for Tabasco. In consequence of a strong southwesterly current, we drifted in near Chittepeque river, where I despatched a boat with an officer for a pilot; the boat returned without the officer, the Commandant having detained him. Situated thus, I thought it most advisable to stand for the river; which I did, and anchored directly opposite the fort, and in good shot distance. I was determined to knock down his fort, if he did not give up the officer immediately, and take him by force. Immediately on the demand being made, he delivered him up, making many apologies for having detained him. Here I was detained near two weeks, by a continual succession of northers, which rendered it impossible to cross the bar. On the 28th, I received a letter from Capt. Dulany, dated Villa Hermoza, requesting to see me; a copy of which I have enclosed, and marked B. The next day I proceeded there in the cutter, for the purpose of seeing the two Captains; reached there in two days; on the third, returned to the vessel, bringing with me Captain Dulany, of the Cato. On my return, I had the pleasure of finding the water on the bar quite

smooth; and sailed for Tabasco, where I arrived on 6th November. After a few day's delay, I proceeded to Chiapa river, distant about thirty-four miles from the mouth of the river. I here found it imprudent to proceed farther up the river, in consequence of sickness, which was brought on by excessive fatigue, in warping up against a four-knot current. I despatched Acting Lieut. Taylor, with Captain Dulany, in the cutter, to Villa Hermosa, and sent a letter to the Governor, requesting him to facilitate the brig and schooner's passage down the river. On their arrival, I set sail, and convoyed them fifty miles clear of the coast, and then stood for this place, where I arrived on the 29th. The Weazel has been actively and usefully employed on this station; particularly in this port. On my first arrival, I found nearly all the crews of the American vessels down with sickness, and my men were compelled to assist them in various ways—in taking care of their vessels, &c. Since being in the Gulf, I have had much sickness on board, which was brought on by the severe duty performed by my men. Jacob Rise, O. S. died in this port on the 28th October, of the fever. Now, with pleasure, I inform you, my officers and crew are in good health; and shall sail from this port for Tampico, as soon as the present norther is over, and the bar smooth enough to cross with safety. I have been compelled to draw two or three bills on Government, in supplying my vessel with provisions, &c. In consequence of Acting Lieut. Carr leaving the vessel at Philadelphia, I appointed Sailing-Master E. C. Taylor Lieutenant, in his place; which appointment, I presume, will meet your approbation;—since which time, he has been performing both duties.

I have the honour to be, with much respect, your obed't serv't,

CHAS. BOARMAN, *Lieut. Comdt. U. S. schr. Weazel.*

U. S. Schooner Weazel, *Havana, 21st January*, 1825.

Sir: I have the honour to report the arrival at this port of the U. S. schooner Weazel, thirteen days from Tampico. The particulars of my movements up to my leaving Alvarado, I presume you have received. Sailed from that port for Tampico on the 7th of December, and arrived there on the 12th. I continued at that anchorage till the 12th inst. giving all necessary assistance to our merchantmen, which was great. Thomas Gray, Seaman, was drowned by a fall from the main boom in assisting one of them. John S. Holey, O. S. deserted. The Weazel has not been successful in capturing pirates, but she has been both usefully and actively employed in giving protection to our commerce. Farther particulars I will give you, during the day.

I have the honour to be, your obedient servant,

CHAS. BOARMAN *Lieut. Comdt. U. S. Schr. Weazle.*

Sea Gull, *Havana, Jan. 24th*, 1825.

Sir: You will proceed to a convenient port of the United States.

there land the money on board your vessel, and report yourself to the Hon. Secretary of the Navy, and the state and condition of your vessel to the Board of Navy Commissioners.

Very respectfully,

(Signed,) D. PORTER.

Lieut. Comd't BOARMAN.

U. S. SHIP JOHN ADAMS, *Thompson's Island, April 25th*, 1824.

SIR: When the Sea Gull and Gillinipper are ready for sea, you will proceed with them to Matanzas, and there await my further orders, giving all protection in your power to our commerce in that quarter. Respectfully, your obedient servant,

(Signed,) D. PORTER.

Lieut. Comd't R. VORHEES.

U. S. SHIP JOHN ADAMS, *April 24th*, 1824.

SIR: With the U. States schooner Jackall under your command, accompanied by the Wild Cat, Lieut. Legare, you will proceed to the island of Mugeres or Woman's Island, on the coast of Yucatan near Cape Catoche, and search of, and for the destruction of a piratical establishment said to exist there. From thence you will continue to cruise along that coast toward Sical, giving it a thorough examination.

From Sical you will send the Wild Cat to me with a report of your proceedings, and shape your course toward Campeachy, and thence to Alvarado, Sacraficios and Tampico, looking in at La Vera Cruz, at one of which places, you will meet this ship, and at the time or soon after your arrival, you will receive by her instructions as to your further proceedings.

You will ask of Lieut. Commandant Oellers my general instructions, which will explain to you the duties you have to perform, as regards the suppression of piracy and the slave trade.

During your stay in the Gulf, and on your passage there, you will seek every occasion to give protection to the persons and property of our citizens.

Wishing you a pleasant and successful cruise, I am, with great respect, your obedient servant,

(Signed,) D. PORTER.

Lieut. Commandant JOHN H. LEE.

Copy of a letter from Lieutenant Commandant John H. Lee, to Commodore David Porter, commanding United States' Naval forces on the West India station, Gulf of Mexico, and Coast of Africa, dated

U. S. SCHOONER JACKALL, *Sical, 12th May*, 1824.

SIR: I have the honour to report to you, that, for the purpose of executing your orders to me on the 25th of April, the Jackall and Wild Cat sailed, on the 26th of that month, from Thompson's Island. On the following day, we made the Coast of Cuba, (Bahia Honda) and passing Cape Antonio in the night, we were unable to look in

there, although I felt a great desire to do so. On the 29th, arrived off Cape Catoche; and, on the same afternoon, anchored between the Island of Contoy and the main land. This island is small, and thinly wooded, so that it required but a few hours to examine every part of it. We could discover no traces of any persons living there, or even of any persons having been there, except two thatched huts, in a very decayed state.

Early on the morning of the 30th we left that Island, and approaching as near the shore as the safety of the vessels would permit, we proceeded to the Island of Mugeres, and in the night anchored between its southwest end and the main land. On the following morning, having found the watering place, the vessels were removed to it, and, at the same time, detachments of men were sent on shore for the purpose of commencing an examination.

This Island is larger, more thickly wooded, and much more difficult of access than Contoy; and we were, consequently, compelled to proceed at a comparatively slow rate. But, sir, I can safely say, that, at the expiration of two days, almost every foot of Mugeres had been traversed.

We found, here, six Indians, from the vicinity of Sical. They stated that they made annual visits to this island for the purpose of making salt, large quantities of which was piled up on the borders of the salt ponds in the interior. While at Mugeres, we were visited by several parties of Indians, from the main, and the Islands of Cankum.

I could glean nothing satisfactory from these men respecting piracy. The stories they told were so very contradictory, and seemingly without foundation, that it was impossible to reconcile them with each other, or with truth; but from all I could hear, and from my own observations, Mugeres has not, for the last two years, been the resort of pirates.

A severe gale detained us at anchor three days longer than was necessary, and this circumstance afforded an opportunity of visiting the main land, which was done by Lieutenant Commandant Legare and Lieut. Piercy, though without discovering any thing more than a few uninhabited fishing huts. On the 7th of this month, we sailed from Mugeres, and passing again by Contoy, anchored near Cape Catoche, and here, sir, our researches were as little to our satisfaction as they had been hitherto, nothing was to be seen but an old dilapidated church and a fishing hut. From thence we continued our course towards New Malaga, examining the coast as we went along, and arrived there on the afternoon of the 8th. Some of the Indians had informed me that a piratical vessel was fitting out at that place; but, sir, no such vessel was there on our arrival, and the commandant, who is apparently a respectable man, assured me that the Fox was the last vessel he had seen.

On the 9th we left New Malaga, and coasted it along within two miles of the shore, looking into all the inlets and communicating with almost every settlement between Malaga and Sical, until our

arrival at the latter place, late on the 11th. From the time we commenced our examination of the Coast, we have never sailed during the night, except once in chase of a schooner, which proved to be a privateer fitted out at Sical, and then, sir, I returned, with the Jackall, to the place I discovered her, and waited until the following morning.

At this port the commandant has been barely civil to us, and the inhabitants, generally, appear to view us more in the light of spies than friends.

You will perceive, from this report, sir, the manner in which we have performed our duty, and I sincerely hope it will meet with your approbation. To the prompt and active exertions of Lieut. Legare, I feel much indebted; and I assure you it would have afforded me great pleasure to have been associated with him for a longer time.

From this place I shall proceed with all possible despatch, to execute your further orders.

I have the honour to be, very respectfully, your most ob't serv't,

JOHN H. LEE.

Com. D. PORTER, *Comm'g U. S. Naval forces on the West India station, Gulf of Mexico, and Coast of Africa.*

MATANZAS, *June 5th*, 1824.

SIR: After touching at Thompson's Island, you will proceed to the coast of East Florida, and give it a thorough examination, to discover an establishment there, said to be of a piratical or irregular character, somewhere about Charlotte Harbour, Chathams Bay, or between that and Tampy Bay.

The inhabitants are said to be Spaniards and Indians; hoist the Spanish flag and have two guns mounted. You will have intercourse with them, ascertain their true character, force and condition, and on your return make to me a detailed report. Should you find the aid of a land force necessary, you can no doubt obtain it from the military commanding officer of the post at Tampy Bay.

Very respectfully, your obedient servant,

(Signed,) D. PORTER.

Lieut. Comd't JAMES M. McINTOSH.

ALLENTON, *Thompson's Island, July 8th*, 1824.

SIR: I had the pleasure of addressing you on the 5th inst. by the Diabletta inclosing a copy of a letter from Captain P. C. Greene, and a sick report, which I trust you will receive at an early period, as the weather has been uncommonly fine since she sailed. The departure of the Martha this evening with a load of flour, affords me another opportunity to communicate to you our situation. The expedition in the barge will necessarily impede much our progress in the buildings and other improvements, for in giving her a complement, I have left the Island almost destitute. The new store which I find by a letter of Lieut. Oellers, dated 29th ult. reported to be nearly finished, I regret to say is little more than half done: it is

only in part covered, floor not laid, no partitions up, or doors or windows made, nor have I any person at present to continue on with it. The only two carpenters in service at present on the Island, I have employed putting a small addition to the house formerly occupied by Captain Wilkinson, to render it barely comfortable for my family. But I am in hopes soon to complete the store on the return of the Diabletta. I would take the liberty of suggesting the propriety of a house carpenter being employed, rated as master carpenter, and sent out immediately; the good advantages which would arise from it I have perceptibly seen displayed with the citizens working for Mr. Simonton. Since his return from Baltimore, with a decent young man in that capacity, almost double the work has been performed by his carpenters, and I find that I cannot with all the attention I can possibly bestow, have as much done by men employed in the public service. I cannot lay out their work, or do I really know, to be candid, what is a day's work for a house carpenter, and having no person here who feels any ambition in *forwarding* that branch, I am liable constantly to impositions.

I have the honour to enclose you a duplicate copy of Captain Green's letter, and Doctor Bassit's sick report of to-day, by which you will find one of the cases reported by him on the 5th, as bilious remittent fever, marked to-day as case of yellow-fever, and I regret to inform you that Richard Purcels, a private marine, died yesterday at the Hospital, of what the Doctor calls a *low type of bilious fever*. It is with much pain, sir, that I am compelled to inform you that I witness daily symptoms among the men a little alarming, almost every day since my arrival and command here; one or more have been taken with severe vomiting, pains in the head and bones, and the disease appears to fluctuate, one day at work, and the next a relapse; and it is high time that Dr. Bassit was assisted in his duties. His riding twice a day frequently from the Hospital to Allenton, and his exposure to sun is well calculated to bring on disease; and if he is indisposed, we are deprived entirely of medical assistance.

I have endeavoured to gain, for the purpose of communicating to you all the information respecting the cruise of Domingo on the coast of Yucatan. It appears that he was connected in his piratical depredation with Diabletta, and that in the division of prize goods captured, a dispute arose, in consequence of too large a portion being demanded by the two leaders, the men seized a blunderbuss, and literally blew Diabletta to pieces. Domingo escaped with a severe sabre cut on his arm, by jumping overboard, and swimming to shore. Joseph Morales saw him since his return from Yucatan, and corroborated these circumstances.

I have, sir, respectfully to request that I may be informed if there is a probability of my being permanently stationed here. The command of the Yard I presume I shall not retain longer than the sickly season; after that time many superior to me will be making applications, and although I have every confidence in your disposi-

tion to do me justice, still I am aware that the calls of superiors must be attended to. But as I am now making preparations for my family, it would be a great source of satisfaction to me to know if I could hold the situation of executive officer of the Yard, if superceded in the command.

The Plants are doing well; the late showers of rain which we have had, has much revived them. I have not yet received any Cocoa Nut Plants, but expect them in the Terrier. I have allowed fifty of the Nuts to be planted by Col. Mifflin and Captain Greene within the enclosure.

I have the honour to be, sir, most respectfully,

JAS. M. McINTOSH, *Lt. Com.*

Com. DAVID PORTER, *Commander in Chief of the U. S. Naval Forces in the West Indies, Gulf of Mexico, Coast of Africa, &c.*

Extract of a letter from Lieut. Commandant James M. M'Intosh to Commodore D. Porter, communicated to the Secretary of the Navy, dated

ALLENTON, THOMPSON'S ISLAND, *July* 12, 1824.

SIR: I have the honour to inform you, that the Terrier, with the barge Diabletta in company, returned here yesterday. Lieut. Paine reports the brig robbed off Escondio, to have been the Acasta, of Portland. They robbed her of two thousand dollars in cargo, her sails, and anchors, beat the commander and crew severely, and then suffered her to proceed to Havana.

Could I, sir, have received the information one day earlier, the Diabletta would have completely succeeded in re-capturing the property, and probably have detected the pirates in the very act. The property stolen has been carried to Havana; at which place Lieut. Paine saw and conversed with the master of the Acasta. The appearance of the barge at so early a period after the transaction, together with the very strict search, I trust will have a good effect.

Extract of a letter from Lieut. Com'dt M'Intosh, to Commodore David Porter, communicated to the Secretary of the Navy, dated

ALLENTON, THOMPSON'S ISLAND, *8th August*, 1824.

The Terrier, Lieut. Paine, returned yesterday morning with the medical stores which I had the honour to inform you were necessary for the station, on the 2d inst. She has been longer executing this service than could have been contemplated, in consequence of continued calms since she sailed from here, and considerable drift to the eastward. She sails again to day for Matanzas, with orders to give convoy to any of our vessels requiring it, and then to proceed and examine minutely the key in the vicinity of Point Yeacos and the Bay of Suagasa, from thence to run down the North Coast of Cuba to Bahia Honda, at which place piratical depredations are said to be almost daily committed.

WASHINGTON, *August* 12*th*, 1824.

SIR: I have received your various communications by the different vessels that have arrived from the Island, all of which are satisfactory to me.

As regards your continuing on the Island, you may rest assured that there is no disposition on my part to make any change whatever in your situation, and it is not my opinion that any change will be made by the Department.

You may therefore, I think, consider yourself permanently fixed.

It is likely that I shall be out in a month or two after you receive this, and it is my intention to reside for a time on the Island, to commence some extensive improvements effecting its salubrity, that I have in contemplation; I shall therefore want my house finished, that I may be comfortable.

I sent several mechanics out in the Wild Cat, expressly for the purpose of being employed on the island, you must endeavour to work them to the best advantage. I laid down a plan for the porches round my house, but on consideration I wished them changed to the one enclosed, letting the rafters commence and rest on the rafters of the main building, about one half the distance up from the eaves, instead of commencing at the eaves as in the old plan. This arrangement will allow of the porch being much wider than formerly intended; it would be very desirable to have it thirteen feet; the eaves of the porch need not be lower than the eaves of the main building, which will make the whole sightly, light, and airy. I have sent out medical aid in the Decoy; I hope it may arrive in season. I would advise that the men be as little exposed as possible to the weather—the more they are kept under shelter the better.

I am in hopes you will be able to get through this season without much sickness. Endeavour to keep every one as comfortable as you can, and let me hear from you by every favourable opportunity, that I may be well informed of the state of the Island. Inform Mr. Mifflin and Mr. Symington that I have received their communications, but the appointment of Mr. Pinkney renders it unnecessary to act on them. Very respectfully, your obedient servant,

(Signed,) D. PORTER.

Lieut. Com. JAS. McINTOSH.

WASHINGTON, *August 18th*, 1824.

SIR: I have received your communication of the 18th ultimo, respecting the Spanish schooner Trinidada, and approve of the course you have pursued with regard to that vessel.

Mr. Easton's disinterested conduct in giving up the vessel without salvage, will no doubt have the happiest effect in preserving the good understanding which happily exists between us and the authorities of Cuba, and will have a tendency to remove the prejudices which exist against us, among the mass of the community.

I wish you to return to him my thanks. Respectfully,

(Signed) D. PORTER.

Lieut. Commandant JAMES M. M'INTOSH.

WASHINGTON, *August 19th*, 1824.

SIR: I enclose you a copy of a letter from Colonel George M. Brook to the Secretary of War.

Instructions formerly given, accompanied by a copy of a letter from the Secretary of the Navy, of the 19th March last, will be your guide as to the course to be taken in regard to the timber lands of the United States, on the coast of Florida.

I wish a detailed report from the officer you send, as to his proceedings, and the value, condition, quantity, and situation of the timber mentioned by Colonel Brook.

Very respectfully, your obedient servant,

(Signed) D. PORTER.

Lieutenant Commandant JAMES M. M'INTOSH, *Commanding officer, Thompson's Island.*

Extract of a letter from Lieut. Comm'dt Jas. M. M'Intosh, to Commodore David Porter, communicated to the Secretary of the Navy, dated

ALLENTON THOMPSON'S ISLAND, *25th August*, 1824.

The United States' Schooner Wild Cat, Lt. Com'dt Legare, arrived here on the 20th inst. from Matanzas. By Lieut. Legare I received your instructions of the 14th, 15th, and 16th ult. and shall avail myself of her sailing, this evening, to comply with the order of the 16th.

The Wild Cat, from the representation of her commander, was permitted to heave out and overhaul: every exertion however, has been made to get her ready for sea: she is now in good order, and will, with the Terrier, I hope, be enabled to protect our commerce in the vicinity of Havana and Matanzas.

Lieut. Legare spoke the Terrier the night previous to his going into Matanzas, to windward, where I had ordered her for the purpose of examining Point Yeacas and Suaguassa Bay; and it is with pleasure I inform you, that he stated the Terrier to have been successful in the capture of a pirate, a launch with from eight to ten men. I expect the Terrier, Lieut. Paine, every hour; on her arrival I will embrace the first opportunity of giving you the particulars of this pleasing information.

SEA GULL, *Port Rodgers, July 3rd*, 1823.

SIR: On Captain Skinner leaving the Wild Cat, you will take charge of her, and so soon as the number of her officers and crew are completed, and her stores and supplies of every kind on board, you will return to this place, passing through the Canous or Crooked Island passage, running down the Old Straight of Bahama, touching at Baracoa and Matanzas, shewing yourself off Havana, and giving the whole coast a thorough examination.

If, however, the honourable Secretary of the Navy should appoint another commander to the Wild Cat, you will transfer to her these orders, for his government.

It is extremely desirable that there should be as little delay as possible in the United States, and you will use every effort to return as soon as possible Very respectfully, your obedient servant,

lieut. F. G. WOLBERT. (Signed) D. PORTER

WASHINGTON, *August 11th*, 1824.

SIR: As soon as the U. S. schooner Beagle shall have completed her repairs, and be in every respect ready for service, you will proceed to St. Thomas, for the protection of our commerce in that quarter, governing yourself in the duties to be performed by the general cruizing instructions, and the orders issued to your predecessor. You will continue on that station, furnishing convoy and protection to our merchant vessels through the passages, until my arrival there, or until further orders.

Should your vessel require any supplies of provisions, stores, &c. you can obtain them by application to Mr. Furnace, a merchant of that place, who has offered to furnish them.

Very respectfully, your obedient servant,

(Signed) D. PORTER.

Lieut. Commandant C. T. PLATT.

U. S. SHIP JOHN ADAMS, *Thompson's Island, January 28th*, 1825.

SIR: In consequence of the affair at Faxardo, I have been directed by the Hon. Secretary of the Navy to repair to Washington, in order that the merits of the case may be perfectly understood, and it is considered important that all witnesses in the case, and particularly yourself, should be present. It is also desirable, that all written testimony that can be had, should be produced.

You will therefore call on Mr. Stephen Cabot, and Messrs. Bergest and Whlhorn, and get their depositions as to the particulars of the robberies on their stores, explaining to them the object, and the great importance it is to me, that proofs should be had that the robberies, in former cases, had been traced to Faxardo and its neighbourhood. You will also call on Messrs. Ellis, Gibson, & Co., John Kettle, Esq., Robert Alexander, Esq., Saubot, Taubert, & Co. and all others whose stores have been robbed, and ask them for their depositions respecting the particulars of the robberies; the tracing of them to Faxardo; the detection of the perpetrators, and particularly in the case of Messrs. Ellis, Gibson, & Co.; also ask these gentlemen, as well as Messrs. Bergest and Whlhorn, for the original attested copies of all correspondence they may have had on the subject of these, with Mr. James Campos, or any other person residing at Faxardo, or any other place to which these robbers had been traced.

You will please to ask Messrs. Cabot, Bailey, & Co. to assist you in collecting all the testimony, in the fullest manner, as I conceive it to be of the highest importance to the mercantile interest of the United States, that the landing on the Spanish coast for the suppression of piracy, and the holding the local authorities responsible, should be justified.

When you have collected all the information and testimony you can obtain on the subject, you will repair with the U. S. schooner Beagle to Washington, where you will report yourself to me. With great respect, (Signed,) D. PORTER.

Lieut. PLATT.

WASHINGTON, *Oct. 20th*, 1824.

SIR: You will proceed, accompanied by Midshipman L. M. Goldsborough and J. Boarman, in the United States schooner Fox, now at this place, to Pensacola and Tampa Bay, for the purpose of surveying those places, and reporting on the same at as early a day as possible.

Your examination and report will be directed to the following points, to wit: The depth of water on the Bar.

Very respectfully,

D. PORTER.

Lieut. J. W. SHERBURNE.

U. S. SHIP JOHN ADAMS, *Thompson's Island, Jan. 15th*, 1825.

SIR: You will proceed to the port of Matanzas with the barge Gallinipper, and there await my arrival.

Very respectfully,

(Signed,) D. PORTER.

Acting Lieut. BENJAMIN S. GRIMKE.

U. S. STEAM GALLIOT SEA GULL, *Havana, June 20th*, 1825.

SIR: You will proceed with the barges to leeward, inside the Colorados, as far as Cape Antonio, in pursuit of pirates, searching in your way, every place likely to give them shelter.

Between Porto Coranas and Bahia Honda is a small river called Artigosa, where they formerly took shelter, and where, if there are any on the coast, they may probably be found. Bayo Blanco and Rio Puercos are also suspicious places, and require to be well examined.

You will use every means in your power to preserve a good understanding with the authorities of the places you may visit, and you will protect the honest and peaceable inhabitants; but whenever you find fishermen without their families, you will give them a rigid examination, and if you find them without license and with arms, you will destroy their establishment, and if there is good and sufficient reasons to believe that they have been engaged in acts of piracy, you will bring them off with you or deliver to a Spanish civil or military officer. You will endeavour to get back to the John Adams at Thompson's Island, in fifteen or twenty days.

Very respectfully,

(Signed) D. PORTER.

Lieut. GRIMKE.

SEA GULL, *Port Rodgers, July 19th*, 1823.

SIR: On your arrival at Washington, you will receive the schooner Terrier, from Lieut. Commandant Rose, and proceed to get her in readiness to return to this place without delay.

The Terrier will require a new suit of sails, caulking; her crew completed and her stores replenished.

If the Secretary of the Navy should not appoint a commander, you will, as soon as ready, return here through the Crooked Island or Caucus Passage, and down the south side of Cuba, touching at St. Jago and Trinidada, looking in at Cape Antonio, and shewing yourself off Havana.

Should a commander be appointed, you will hand him these instructions for his Government; you will apply to the Board of Navy Commissioners for orders respecting the repairs.

Very respectfully, your obedient servant,

(Signed,) D. PORTER.

Acting Lieut. WM. MCKEAN.

Lieut. Comd't Rose will please to land his marines, and make me a return of the officers, seamen, ordinary seamen and boys, on board his vessel. Respectfully,

(Signed) D. PORTER.

SEA GULL, *July 19th*, 1823.

P. S. You will please cause all the sweeps and spare oars of the Terrier to be delivered to the store keeper at Allenton.

(Signed,) D. P.

Copy of a Letter from Acting Lieutenant Alex. B Pinkham, to Commodore David Porter, communicated to the Secretary of the Navy, dated

U. S. SCHOONER BEAGLE;

Quarantine Ground, N. Y. August 4, 1824.

SIR: I have the honour to acquaint you of the arrival of the Beagle at this place, in eleven days, from Thompson's Island, and have also the painful duty of announcing to you the death of the late commander of this vessel, Lieut. N. L. Montgomery, who died on the 30th ult. in lat. 35° 23' north, longitude 74° 30°, in consequence of which I considered it my duty to acquaint you with the events of our cruise, in continuation of a report commenced by Lieut. Montgomery, found among his papers, and hereto attached.

The convoy from St. Jago de Cuba, consisted of the brigs Susan, of Philadelphia, Jane and Boston Packet of Kennebunk: we also fell in with, off Cape Dona Maria, and took under convoy, the English ships Glasgow and Caledonian, from Jamaica. Having accompanied the convoy through the Crooked Island passage, as far as Matland's Island, we returned to St. Jago, (having touched at Crooked Island to fill up our water,) on the 21st of June; we sailed from thence on the 22nd, and arrived at Trinidad on the 27th.

Sailed from thence on the 4th July, having under convoy the brigs Florida of Boston, Mary and Eliza of Sandwich, schooner Hannah, of Boston, and the French brig Duc d'Angouleme. Parted company with the convoy on the 9th, off Cape Antonio, in order to make the best of our way to Havana, in consequence of the sickly state of the officers and crew, the yellow fever having made its appearance on board on the 6th, of which disease six persons, including

Lieut. Commandant Montgomery, have died. More than half the crew were attacked, but most of them have recovered.

On the 20th we arrived at Havana, filled up our water, and sailed same day. On the 22d, arrived at Thompson's Island, and having received the necessary supplies of provisions, sailed from thence on the 24th. You may rest assured, sir, that the disease did not originate from any local cause. The general regard to cleanliness observed on board the vessel, and Lieut. Com. Montgomery's attention to the comforts of the crew, would impress a belief that it originated from the unhealthiness of the climate, and of the ports we lay in.

I have the honour to enclose you a correspondence between Lt. Com. Montgomery and the Governor of Trinidad, with other papers; also, a list of the officers and crew of the Beagle.

In consequence of the disability of my right arm from the effects of a voilent attack of the yellow fever, from which I am yet much debilitated, I am not able to sign my name, but I have the honour to be, very respectfully, your most obedient servant,

his
ALEX. ⋈ B. PINKHAM, *Act'g Lieut.*
mark

Com. D. PORTER, *&c. &c. &c.*

WASHINGTON, *August 11th*, 1824.

SIR: I have received your communication of the 4th, announcing the arrival of the Beagle, and the melancholy news of the death of Lieut. Montgomery and several of the crew. I hope sincerely that those who have been attacked with the fever may soon recover, and it is my wish, that every comfort that they may require, may be furnished them, so far as circumstances will permit.

The Beagle must be got ready for sea again with all possible despatch, and her crew is to be filled up by requisition on the recruiting officer.

Capt. Finch will give you more detailed instructions when necessary. Very respectfully, your obedient servant,

(Signed) D. PORTER.

Acting Lieut. A. B. PINCKHAM.

SEA GULL, *Port Rodgers, July 14th*, 1823.

SIR: The services of every officer who can attend to duty will be required, on the intended expedition, and I cannot feel myself justifiable in permitting any one to return to the United States as sick, except under a sick ticket from the physician.

Very respectfully, your obedient,

(Signed,) D. PORTER.

Lieut. R. M. POTTER.

U. S. SHIP JOHN ADAMS, *Cranney Island, Dec. 30th*, 1823.

SIR: You will proceed with the United States' ship Decoy to Thompson's Island, running down the south side of Cuba. On

your arrival there, you will receive further instructions from Master Commandant Jesse Wilkinson, to whom I refer you in all cases of difficulty, either in deciding on the character of vessels you may meet with, or other circumstances. I enclose to you my general instructions as to the duties of officers.

Very respectfully, your obedient servant,

(Signed) D. PORTER.

Lieut. Commandant F. B. GAMBLE.

MATANZAS, *May 4th*, 1824.

SIR: You will proceed to New York with the United States' ship Decoy;—take in a supply of stores for the squadron under my command, and return with all possible despatch to Thompson's Island.

The men whose terms of service have expired, are to be discharged, and others are to be got to supply their places.

Very respectfully, your obedient servant,

D. PORTER.

Lieut. Commandant F. B. GAMBLE.

U. S. SHIP PEACOCK, *Aguada, March 11th*, 1823.

SIR: You will proceed with the Sea Gull under your command, accompanied by the FOX, down through the Old Streights of Bahama, to Thompson's Island.

With great respect, your obedient servant,

(Signed) D. PORTER.

Lieut. Commandant WM. H. WATSON.

U. S. GALLIOT SEA GULL, *Allenton, May 10th*, 1823.

SIR: You will take command of the barges Gallinipper, Musqueto, and the two schooners Weazle, and FOX:—with them you will proceed in search of pirates in the Old Streights of Bahama. If your provisions will hold out, and circumstances will make it in your opinion necessary and proper, you will extend your cruise so as to make the complete circuit of the Island, returning by the way of Antonio.

Very respectfully, your obedient servant,

(Signed) D. PORTER.

Lieut. Commandant WM. H. WATSON.

Lieutenant Commandant Watson to Commodore Porter.

U. S. GALLIOT SEA GULL,

Allenton, Thompson's Island, July 11, 1823.

SIR: Having had the honour to report the circumstances attending the cruise of the division under my orders, prior to our separation off St. John de los Remedios, I have now to communicate, for your information, my subsequent proceedings, in the barges Gallinipper and Musquito.

After a strict examination of the Coast and Islands, from Cayo Francis to Cayo Blanco, in the vicinity of Point Hycacos, whilst

cruising in Siguapa Bay, we discovered a large topsail schooner, with a launch in company, working up to an anchorage, at which several merchant vessels were then lying.

Being to windward, I bore up in the Gallinipper, for the purpose of ascertaining their characters, and, when within gun-shot, perceiving the large vessel to be well armed, and her deck filled with men, I hoisted our colours; on seeing which, they displayed the Spanish flag, and the schooner having brailed up her foresail, and commenced firing at the Gallinipper, I immediately kept away, and ran down upon her weather quarter, making signal, at the same time, for the Musquito to close. Having much the advantage in sailing, they did not permit us to do so, but made all sail before the wind for the village of Siguapa, to which place we pursued them, and, after a short action, succeeded in taking both vessels, and effecting the almost total destruction of their crews, amounting, as nearly as could be ascertained at the time, to 50 or 60 men; but, as we are since informed, to seventy or eighty. They engaged us without colours of any description, having hauled down the Spanish flag after firing the first gun; and, on approaching to board, (our men giving three cheers and discharging their muskets) the pirates fled precipitately, some to their launch, (lying in shore, from whence a fire was still kept up) whilst others endeavoured to escape by swimming to the land. A volley of musketry, directed at the launch, completed their disorder, and drove them into the sea; but, the boats going rapidly through the water, cut off their retreat, with the exception of fifteen, eleven of whom were killed or desperately wounded, and taken prisoners by our men, who landed in pursuit; and the remaining four apprehended by the local authorities, and sent to Matanzas.

The larger vessel was called the Catilina, commanded by the celebrated pirate Diabolito, taken, some weeks since, from the Spaniards, between Havana and Matanzas, carried to Siguapa Bay, where she received her armament—had captured nothing, this being the commencement of her piratical cruise.

I cannot close this communication without performing a most pleasing task, in reporting the active gallantry and good conduct of my officers and men, none of whom sustained the slightest injury in the action, the result of which is, I trust, sufficient to satisfy you that all under my orders did their duty, particularly when it is considered that we had but twenty-six men, opposed to a force of piratical vessels well supplied with arms of all kinds, amongst which was one long nine and two six pounders.

I have much pleasure in naming, as my associates, Lieut. Inman, Acting S. Master Bainbridge, Dr. Babbit, Midshipmen Harwood and Taylor, and Messrs. Webb and Grice, who obeyed and executed all orders and signals, with a promptitude and zeal which could not be exceeded.

I have the honour to be, very respectfully, your obed't serv't,

W. H. WATSON.

Commodore D. PORTER, *Comd'g U. S. Naval Forces in the W. Indies and Gulf of Mexico.*

(*Extract.*)

SEA GULL, *Port Rodgers, July 13th*, 1823.

SIR: You will take command of the barges, Gallinipper, Musqueto, Medge, Sand Fly, Grab-all, and Decibolita, all get them away for sea, with all despatch. When ready, you will please to inform me.

The Gallinipper and Musqueto will be manned from this vessel; the Medge from the Hornet, and the Sand Fly and others, from the ships which may hereafter arrive. (Signed) D. PORTER.

Directed to Lieut. Commandant WM. H. WATSON.

U. S. SHIP JOHN ADAMS, *Thompson's Island, April* 21, 1824.

SIR: If, on your arrival at Jamaica, our merchants there should have any considerable amount of specie, to transport either to St. Jago, Havana, or the United States, you are at liberty to depart from my instructions of this date, so far as to accommodate them with a conveyance for it in your vessel, giving me, or the commanding officer here, the earliest intelligence on the subject.

I have read to you the instructions of the Honourable Secretary of the Navy, relative to the transportation of treasures. I have no apprehension that you will go beyond the authority given. It is therefore needless to make any further communication on the subject. I will merely remark, however, that none of the vessels of war, under my command, must, on any account whatever, and under any inducements, be used for the purposes of commercial adventure. You can carry treasures of our citizens from one port or place to another, and you can take it to the United States, but nothing in the shape of public advertisements, must appear, and in all your intercourse with the authorities of the places you may visit, make frank acknowledgments of the motives which brought you there. Let all your transactions in this respect be open, and not liable to misapprehension. Nothing, whatever, in the shape of clandestine shipments must be countenanced.

For the information of the Government, you will, on joining me, report to me the amount of treasures on board your vessel, where taken from, where destined, and the circumstances, terms and conditions, on which you have taken them.

Wishing you a pleasant and profitable cruise, I am, very respectfully, (Signed) D. PORTER.

Lieut. Comd. N. L. MONTGOMERY.

U. S. SHIP JOHN ADAMS, *Thompson's Island, April* 12*th*, 1824.

SIR: You will proceed with the U. S. schooner Grey Hound, under your command, to Matanzas, and thence to Havana, with the enclosed general order, which you will shew to the commanders of such of the small schooners as may be at either of these places, or as you may meet with on the coast.

You will collect all the letters and papers at Matanzas and Havana for the squadron, and send them over to this place in one of the schooners.

From Havana you will proceed to the west end of Cuba, anchoring near Cape Antonio, and there wait the arrival of the barges, under the command of Captain Wilkinson, from whom you will receive your further instructions.

Very respectfully, your obedient servant,

(Signed) D. PORTER.

Lieut. Comdt. RAY.

MATANZAS, *May 4th*, 1824.

SIR: You will proceed to Havana, with the United States' schr. Grey Hound, and there receive on board such specie as may offer for the United States, at 2 per cent. freight. You will be particularly careful, that nothing in the shape of advertisements are put forth, and that no clandestine shipments are made; and you will make me an accurate return of the amount taken on board, the names of the shippers, and all the circumstances attending the same, in order that I may transmit it to the Government.

When ready for sea, you will proceed to New York, land the specie, and deliver the Grey Hound to the Commandant of the Navy Yard, to be coppered and repaired. As soon as her repairs, &c. are completed, you will return to Thompson's Island, by the way of St. Bartholomews and St. Thomas.

Very respectfully, &c. (Signed) D. PORTER.

Lieut. Comdt. RAY.

Commodore Porter to Captain John Porter.

U. S. SHIP PEACOCK, *March* 4, 1823.

SIR: You will proceed to the port of St. John's, in the harbour of Porto Rico, and deliver the accompanying letter to the Governor.

You will there wait, if necessary, two days, for the answer, apprizing him of your intention so to do; and at the expiration of that time, you will proceed to join me, either off the harbour, or at the port of Aguada, at the west end of the island, where I shall water the squadron.

I have the honour to be, very respectfully, your ob't serv't,

D. PORTER.

To Captain JOHN PORTER, *U. S. Schooner Greyhound.*

U. S. SHIP PEACOCK, *Aguada, March* 11, 1823.

SIR: You will proceed with the U. S. schooner Grey Hound, under your command, to Thompson's Island, taking with you the Ferret, Terrier, and Weazel.

You will run down the south sides of St. Domingo and Cuba, giving the coasts of both these islands a thorough examination.

You will remain at Thompson's Island until my arrival.

With great respect, I have the honour to be, your obed't serv't,

(Signed) D. PORTER.

Capt. JOHN PORTER.

MATANZAS, *June 6th*, 1824.

Being about to return to Washington, and the season when
y expect sickness approaching, I have to direct that such of
ıll vessels now absent from this neighbourhood, are to be di-
to repair to New-York as fast as they may arrive at the Is-
The Ferret, Lieut. Com. McIntosh, is to remain on the sta-
also the Grey Hound, on her return from New-York. The
Cat. Lieut. Com. Legare, I shall for Washington, to re-
the station immediately, where she will remain subject to
ther orders. Of the large vessels, the Hornet and Porpoise
een directed to remain in the neighbourhood of Havana,
as, and Thompson's Island, for the protection of our com-
All the rest will proceed to New-York, with the excep-
the Decoy, which ship will remain at Thompson's Island for
ther orders. The cargo she may bring out, is to be disposed
ie stores to the best advantage.
will keep me regularly informed, by every opportunity, of
urrences on the station, its state, and condition.
probable my return to the Island will be about the last of
r, or the beginning of November.
e, sir, that every thing will be conducted with the greatest
y and prudence, and that nothing will be done to disturb
l understanding which now happily exists between the squad-
l the authorities of Cuba.
completion of the buildings, and other works going on, is to
edited with all the means in your power. I am, sir, very re-
lly, your obedient servant,

(Signed,) D. PORTER.

Commanding Officer at Thompson's Island.

WASHINGTON, *August 12th*, 1824.

I enclose you copy of instructions from the Secretary of
ry, which you will cause to be executed whenever one of
ll schooners can be spared for the service.
respectfully, your obedient servant,

(Signed,) D. PORTER.

nior Officer, Thompson's Island.

MATANZAS, *July 7th*, 1824.

Understanding by the public prints, that you have been direct-
te the Minister to Mexico, I have to direct that, (after the per-
e of this service, or any other confided to you by the Sec-
f the Navy,) you remain in the neighbourhood of Havana,
as, and Thompson's Island, for the protection of our com-
until further orders, unless you should have on board mo-
longing to our merchants destined for the United States ; in
ase you will proceed to New-York, reporting to me your
there, should I be in Washington : but in case I shall have

left the United States, you will, after landing the money, repair to Thompson's Island, visiting in your way there St. Bartholomews, St. Thomas, coasting down the south side of Porto Rico, St. Domingo and Cuba. Very respectfully, your obedient servant,

(Signed,) D. PORTER.

Commanding Officer of the U. S. Sch. Porpoise.

Official communications between Commodore Porter and the constituted authorities of the West India Islands.

Commodore Porter to the Governor of Porto Rico.

U. S. SHIP PEACOCK, *March 4th*, 1823.

YOUR EXCELLENCY: I have the honour to inform you, that, in pursuance of orders from my Government, I have taken command of all the United States' naval forces in these seas, for the protection of the commerce of the United States' against all unlawful interruptions; to guard the rights, both of property and person, of our citizens, whenever it shall become necessary; and for the suppression of piracy and the slave trade.

As great complaints have been made of the interruption and injury to our commerce by privateers, fitted out from Spanish ports, I must beg your Excellency to furnish me a descriptive list of vessels, legally commissioned to cruize from Porto Rico, with a set of the blank forms of these papers, that I may know how and when to respect them, if I should meet with any of them.

I must also beg your Excellency to inform me, how far they have been instructed to interrupt our trade with Mexico and the Colombian Republic, and whatever instructions or authorities they may have, affecting our commerce generally.

As the suppression of piracy, the principal motive for my visit to these seas, is an object that concerns all nations, (all being parties against them, and may be considered allies,) I confidently look to all for co-operation, whenever it may be necessary, or, at least their favourable and friendly support; and to none, more than to those most exposed to their depredations, I therefore look with confidence to your Excellency for the aid of such means as may be in your power for their suppression; and, in the absence of means, I beg to assure your Excellency, that, whatever course may be pursued by me, to destroy these enemies of the human race, it will have no other aim; and I shall observe the utmost caution, not to encroach on the rights, or willingly offend the feelings of others, either in substance or in form, in all the measures which may be adopted to accomplish the end in view.

It will afford me sincere pleasure, should I be so fortunate as to fulfil the expectations of my Government, and at the same time preserve harmony and a good understanding with those, with whom I may be so unfortunate as to come into collision or discussion, in

relation thereto ; indeed, it will add much to my happiness, if it can be avoided altogether.

That such is my sincere wish, and that the objects set forth by me, are the only ones which brought me to these seas, I beg leave to assure your Excellency in the most positive and unequivocal terms.

With the highest respect, I have the honour to be, your Excellency's very obed't and humble serv't, DAVID PORTER.

His Excellency the GOVERNOR OF PORTO RICO.

Captain General of Porto Rico to Commodore Porter.

Office of the Captain General of Puerto Rico.

MOST EXCELLENT SIR : I have this moment received the very estimable letter of your Excellency, dated the 4th of the present month, in which your Excellency has been pleased to communicate to me the important commission, which has been entrusted to you by a Government, that claims the respect of all the territories within its influence.

I have the satisfaction of forwarding to your Excellency, a nominal report of the privateer vessels, which have been armed and despatched, for the purpose of cruising, by the competent authority in this Island, agreeably to the request which your Excellency has made me in the letter of that date ; and I am extremely sorry to find myself so situated, that I cannot comply with the wishes of your Excellency, in regard to my transmitting to you a set of *blank forms*, for the purpose of enabling your Excellency how and when to respect their commissions. The diplomas which they receive come from our court, already signed, by his most Catholic Majesty and the Minister to whom this office pertains ; leaving, in these cases, the naval authority here, limited only to the filling of the blank spaces in them, with the name of the Captain and of the vessel. Thus situated, it is impossible for me to accede to your circumspect views in this particular object. But, nevertheless, if it should, on occasion, appear requisite to your Excellency, the said diplomas or commissions can be examined, together with a blank signature of the Captain of this Port, in order that a sufficient ground may be established for comparing this signature with those which may be presented, keeping in view the prospectus of those with which the said privateers are cruising.

I am, likewise, asked by your Excellency for information, how far my instructions are extended, for interrupting the commerce of the United States with Mexico and the Republic of Colombia ; and, for your gratification, it is my duty to declare, that I find myself sufficiently instructed to state, that the blockade, which was established on all the coasts and ports of the provinces of Venezuela, has been raised. Under these circumstances, I consider the commerce of the United States to be in free capacity for an intercourse with that of the places formerly blockaded ; reserving, however, for lawful capture, the vessels of any nation which shall be found conveying imple-

ments of war to the insurgents or people disposed to co-operate with them in their military resistance. I can give your Excellency no certain information concerning Mexico, but it is my opinion, that the circumstances and condition, are to be found the same as those of Venezuela.

The very important objects to which your commission into these seas is directed, and your good intention and views, afford me the greatest satisfaction, and hasten me to manifest myself to your Excellency, as at the instant I now do, in order to assure you, that all within the scope of my authority and faculty in this Island, as one of the places most interested in the flourishing of commerce, and the revival, if possible, of good faith and due respect to the property of the citizens.

Trusting that your Excellency may be able to fulfil the desires of your Government in this important charge, and that they may be ever more and more happy in their election:

I have the honour of being, with the greatest respect, your Excellency's most attentive and sure servant, who kisses your hands.

Excellentissimo Senor MIGUEL DE LA TORRE.

PUERTO RICO, *6th March*, 1823.

Most Excellent Sir, Commander of the Squadron of the United States, in the offing of this Port, D. DAVID PORTER.

Office of the Captain General of Porto Rico.

MOST EXCELLENT SIR: At noon, this day, just as I arrived from the village of Caguus, where I received, at 8 o'clock this morning, the official letter of the King's Lieutenant Commandant of this place, advising me of the arrival of the squadron under the command of your excellency, with a disposition to enter this port, I have been inauspiciously informed of the misfortune occurring in the death of the commander of a schooner of war belonging to the squadron, which, it seems, persisted in entering the port, notwithstanding his having been warned by the fort to desist from his undertaking, by a discharge of two cannons, the first with a blank cartridge, and the other at an elevation, with a ball. But the garrison, in seeing his obstinacy, followed, with an extraordinary rigour, the orders for hindering the entrance of the squadron till my arrival, according to the determination formed by the said Lieutenant of the place yesterday. I wish to persuade the mind of your excellency into a consciousness of the sorrow which this event, so mournful and unfortunate, has caused me: so much the more painful, inasmuch as it has happened in a place in the district under my command, and on an individual under the orders of your excellency, and a citizen of the United States—of a nation, with whom, in all acceptations, the Spaniards of both hemispheres are found united.

So unexpected a misfortune, which, it seems, ought never to be feared in friendly establishments, appears to carry on itself a character of criminality, which more and more aggrieves my feelings.

But the juncture of the circumstances which have conspired towards this fatality, according to the information received by me, is such, that, if your excellency will be pleased to examine it with impartiality, you will perceive, that, if the facts are not sufficient to mitigate the regret, they are, at least, enough to prove, that there has been no intention of failing in regard to your excellency, nor of offending any citizen of the United States, and much less their Government.

The Lieutenant of the King, and Commandant of the place, grounded on various reasons, of which it is not important to trouble your excellency with a citation, but of which, however, I will point out a few, believed that he ought not permit the entering of the squadron until my arrival. One of his motives arose from his recollecting that, during the last year, an expedition was armed in the ports of North America, against this Island, and placed under the command of a man named Decoudray Holstein, which expedition actually went into the port of St. Bartholomew, under the American flag. And, among his other reasons, were the following: It has been reported here, that another similar expedition is this year in preparation; that the schooners alluded to, on their entering, yesterday, would not receive the pilots on board unless they practised with particular plans of the harbour, and the lead in their hand, of which the Captain of the Port made his complaint; that, when the officers came on shore, a rumour was spread that they were saying Spain had ceded this island, and that of Cuba, to the English, which relation they confirmed to the Lieutenant of the King, as he himself has assured me: that their not having presented to him the writing, nor any expression from your excellency, he suspected he had found something alarming in these rumours, and not sufficient proofs that these were national vessels, merely by the uniform in which the officers were dressed.

These are some of the reasons which he has informed me he had in view in not consenting to the entrance of the squadron until my arrival; and, in consequence of them, he despatched his orders to the Castle of the Moro, not for the purpose of committing hostilities, but merely preventive orders. He sent an adjutant, at half past 6 o'clock in the morning, accompanied by an interpreter, on board one of the schooners under the command of your excellency, to entreat her commander to be so good as to call on the Government, in order to agree with them on the means and form of making known to your excellency this their determination. Unfortunately, the commander of the American vessel deferred, in the first place, his seeing the Lieutenant of the King until one o'clock in the afternoon; and, provoked by the adjutant to view it as an urgent case, and to consider duly the cause of his being disturbed, and of which he was fully informed, this commander promised the adjutant that he would go to the Government as soon as he could dress himself. By an unheard of fatality, he did not accomplish this promise until after his hearing the firing of the cannons at the Moro, which

might have been avoided had he only presented himself for an interview with the commandant of the place.

The remissness of this officer, and the pertinacity of him who commanded the schooner, in his not suspending his entering, in spite of the cannon that was fired without a shot, and without waiting for a pilot; but, notwithstanding this, and the second discharge of a gun, at an elevation, to crowd sail, in order, at all events, to gain the port; these acts, most excellent sir, have been the means of depriving the United States of a citizen, your excellency of an officer, of filling Puerto Rico with mourning, and myself with inexpressible sorrow. I feel it to be my duty to assure your excellency, that the orders issued by the lieutenant of the king, and commandant general of the place, were by no means intended to commit hostilities, or offence against the vessels; but as the firing was made at an elevation, either the tumbling of the sea, or perhaps some bad pointing, must have been the cause why the fourth discharge should produce such a fatal effect.

Immediately on my return to this place, I gave orders, that all the vessels under the command of your excellency, of whatever description, may enter freely into this harbour, as into a port of friends, where they will meet that reception which the law of nations assigns to those who claim a title to civilization, and other privileges, secured by the treaties of friendship existing between the two nations. In this act, I anticipate for myself the satisfaction of being able to manifest, personally, all the consideration which your person merits from me, and my regret for so mournful and disagreeable an event.

May God preserve your excellency many years.

Excellentisimo Senor.

MIGUEL DE LA TORRE.

Puerto Rico, 6th March, 1823.

To the most excellent Commander in Chief of the Anglo American Squadron, in the offing of Puerto Rico, D. DAVID PORTER.

Office of the Captain General of Puerto Rico.

MOST EXCELLENT SIR: One of the first objects of my attention, as soon as I was informed of the mournful accident, concerning which I wrote to your excellency in my letter of yesterday, was to acquaint myself with the actual condition of the wounded individual, in order that he should be located where the duties of friendship might be exercised for his accommodation and comforts; but, being certified that he had died, during the transaction before related, I could do no otherwise than give my orders, that his funeral should be conducted with all the decorum and manifestation of respect due to an honourable officer of his character and station; and causing his corpse to be attended to the grave, by a procession, composed of the principal chieftains, authorities, and other officers of this garrison. In this act, I could wish that your excellency might re-

cognize an expression of the lively sorrow which has been excited in me by this misfortune.

May God preserve your excellency many years.

Excellentissimo Senor. MIGUEL DE LA TORRE.

Puerto Rico, 7th March, 1823.

To the most excellent Commander in Chief of the Anglo-American Squadron, in the offing of this port, D. DAVID PORTER.

Commodore Porter to the Governor of Porto Rico.

U. S. SHIP PEACOCK, *Aguada, March 8th*, 1823.

To his Excellency the Governor of Porto Rico.

YOUR EXCELLENCY: On the 3d of this month, I despatched from the squadron under my command, the United States' schooner Greyhound, commanded by Captain John Porter of the United States' Navy, who was the bearer of a letter from me to your Excellency, written in strict conformity with instructions which I had received from my Government, propounding certain inquiries, to enable your Excellency to put me in possession of such information, as would place it in my power to fulfil the benevolent intentions of the government of the United States, without infringing on the rights of Spain as a belligerant.

The commander of the Greyhound was directed to remain in St. John's two days, for your Excellency's answer, and then to join me off the port, or at this place, where I proposed watering the squadron under my command.

On the second day after his arrival at St. John's, I directed the commander of the United States' schooner Fox to proceed there with his vessel, to ascertain what time it was probable your reply would be obtained, with orders to return immediately, and apprise the commander of the United States' schooner Beagle, another of my squadron, of my intention to come to this place.

On the arrival of the Fox within gun-shot of the castle, I was much surprised to observe that six guns were fired at her; but, knowing of no cause to justify such an act of violence, I should have thought, that perhaps, I might have been mistaken, had not the commanders of all three of those vessels failed to obey my instructions, which could not have happened, but for some violent detention by the authorities at St. John's.

Until I am better satisfied of the fact, however, I shall refrain from the expression of my sentiments on the subject, and shall, for the present, merely observe, that their character could not have been misunderstood: as my squadron, at the time of the departure of the Fox, was laying in full view of the castle, with their colours flying, and a British squadron, under the command of Sir Thomas Cochrane, which had several times communicated with me, and well knew the vessels arrived there the day previous to the last mentioned vessel, and on the day previous to my arrival off the port.

I know not whether my suspicions are correct, but I have, in the event of their being so, directed the senior officer to abandon the vessels, and leave the Island of Porto Rico, as soon as possible, leaving it to my country, to whom I shall make known the facts, to resent the outrage as it may think proper, and which it will, no doubt, do promptly and effectually.

Your Excellency must be aware, that it is always in my power to retaliate, and even in this place; but it would be a poor return for the friendship and hospitality I have received from its inhabitants, and I cannot reconcile it to myself, that the innocent should be made to suffer for offences not their own.

With great respect, I have the honour to be, your Excellency's most obedient humble servant. D. PORTER.

Commodore Porter to the Captain General of Porto Rico.

U. S. SHIP PEACOCK, *Aguada, March* 11, 1823.

To His Excellency the Captain General of Porto Rico.

YOUR EXCELLENCY: I have the honour to acknowledge the receipt of your several favours, of the 6th and 7th of this month.

That which is in reply to the letter I had the honour to address you, on the 4th, is perfectly satisfactory in all its details; and the promptness with which you have been pleased to attend to it, as well as its contents, will, no doubt, be highly gratifying to the Government of the United States.

I know not how to touch on the melancholy subject of your other letters, without giving vent to some of those feelings which operate at this moment on my mind. I shall endeavour, however, to treat it coolly and dispassionately, and hope, by a few facts, to convince your Excellency, that there was not the shadow of an excuse for interdicting the entrance of my squadron into the harbour of St. John's. That nothing can justify the order issued by your second in command, to fire upon any of the vessels composing it; and that the act of firing was, to say the least of it, an act of the most unpardonable cruelty and barbarity. It is painful to me to see that your Excellency has laboured to justify the act, and to throw the blame on the commander of one of the United States' vessels, then in port.

A statement in the Echo of the 8th, drawn by the same hand that penned your letter to me, is given to the public, with the same object in view. Your Excellency may have reasoned yourself into a belief of the correctness of the inferences you have in both cases drawn from information given you, or both may have been considered as necessary and proper to prevent excitement; but I must be excused for saying to your Excellency, that the charge is only an aggravation to the outrage which had already been committed. It was not the duty of that officer to move at the beck and call of the king's lieutenant, or to leave the duty unexecuted, which I had sent him to perform, to communicate to me the hostile intentions of

a subaltern, which, had they been fully explained to him, he never could have believed he would have dared to have carried into effect; but they never were explained, and no such conversation took place between the king's lieutenant and the American officer, as is related by your Excellency. Your Excellency has been misinformed on the subject; and had it taken place, and had it been the duty of the American officer to have communicated to me the intention, to prevent my coming into port, it would have been impracticable for him to have executed it, as the sea raged with such violence, at the time, that no vessel or boat could possibly have left the harbour.

It is not magnanimous in your Excellency, to resort to such means to excuse the bad conduct of those under your command.

The officer you would implicate, was the bearer of a despatch from me to your Excellency, apprising you of the benevolent intentions of my Government in fitting out the squadron I have the honour to command.

He had been two days in your port, and was possessed of a copy of my letter to you, which had been seen by your second in command, at the moment of his presenting himself to him, which was on the day of his arrival; and, if any doubts existed, as to his character, or the character of the vessel under his command, being in the power of the authorities of Porto Rico, they could easily have satisfied themselves. But he had been received and treated as an American officer; and it is only to endeavour to palliate, or excuse the conduct of the offending individual, that your Excellency has sought for facts, which would never have been brought into notice, but for the lamentable circumstance which gave rise to these painful remarks.

He informed your second, of the character of my squadron; a British squadron was then lying in the port, which knew me, and, there cannot be a doubt, had communicated intelligence of my intentions to visit Porto Rico.

The sloop of war on board which my pendant was flying, with some small vessels of my squadron, were lying in full view of the castle, with their colours hoisted; the schooner which was fired into, was standing directly into port, in open day; she could not have escaped, after the first shot was fired, or have given up her intention of going into St. John's, had she been so disposed, or had she understood what was intended by the firing. But, let me ask your Excellency, who for an instant could have supposed, that a small schooner, of scarcely forty tons burthen, mounting only three guns, with a complement of twenty-five officers and men, would have occasioned any alarm to the city of St. John's, surrounded as it is by fortresses, rendered as impregnable as nature and the art of man can make them? Was it not more natural to believe, that the firing was intended to compel her approach? And, even if the intention was not complied with, ought not her feeble condition to have claimed from those in your fortress some mercy? But, no;

the vessel, after the death of her lamented commander, was compelled to anchor between the forts, where a tremendous sea was running, which jeopardized the lives of every one on board; to send the small boat on shore, where the young midshipman who commanded her was insulted, by having a heavy gun pointed at the boat, and threatened with destruction if he attempted to move from his position. He was then taken, like a criminal, and placed under guard.

These are facts, your Excellency, and incontrovertible ones.

Let me ask your Excellency, what better proofs you have of the character of my squadron now, than were produced on the first day of the arrival of the officer you wish to implicate? What further examination has been made, that the authorities of Porto Rico are better satisfied of our being Americans now, than they were before? None.

I repeat it, that the character of my squadron was well known in St. John's. Even in this obscure place, I found American newspapers containing all the details respecting it; and, at St. Thomas's, I saw persons direct from St. John's, who informed me that its equipment and object were well known there. There has, in fact, been a degree of publicity given to the expedition, and an interest felt in it, that have been rarely equalled. The whole of the civilized world was interested in its success. It is in vain, then, to say, that we were taken for lawless invaders; and it is unjust to endeavour to stain the character of my country, by a charge of the frequency of hostile expeditions against the Spanish possessions, or offer them as an excuse for the conduct of the offender. Bad men escape sometimes the vigilance of the most rigid authorities, and no Government deserves reproach when it does its utmost to detect and bring them to punishment.

I find your coasts lined with troops, since my arrival here. I find reinforcements daily coming in, as I am informed by your order, to protect the inhabitants from my resentment. I have found every precaution taken to keep me in profound ignorance of the lamentable occurrence, but these things were all in vain. I saw the insult offered to the flag of my country. I have satisfied your military commanders that their force is despicable when compared to that at my disposal, and I have convinced the inhabitants that, although they are at my mercy, they will not be made answerable for the offences of an individual.

It is not, then, becoming to the character of your Excellency to resort to subterfuge, in order to divert the odium of the act from one officer, to attach blame to another.

I will further ask, why a rigour should be exercised towards vessels bearing the American flag, that was not extended to the British squadron, or to the French frigate which arrived subsequent to the attack on Lieut. Com. Cocke? In the one case there was only a small schooner to fire at; in the other, there were vessels of force!

Had he fallen in battle, and by the hand of a declared enemy, we should have been reconciled to his fate by the proud satisfaction that he died in the performance of his duty to his country; but, to be thus cruelly torn from us, and by the hand of a dastard, whose aim was the more sure from a confidence in his own safety, and the defenceless condition of his object, admits of no consolation.

Your Excellency, in conversation with the officer you wish to implicate, adverted to the affair of the Panchita as some palliation for the offence; and there is too much reason to apprehend, that the officer who gave the order to prevent the entrance of my squadron, as well as those who executed it, thought this a fair opportunity to retaliate. Otherwise, why heat shot in the furnaces to destroy my squadron? Why open two batteries on the schooner, and why fire round shot and langrage while the lamented victim was hailing the fort? And why the remark of the man who pointed the gun, that the shot was intended to avenge the Panchita?

Your Excellency will recollect, that, in the case of the Panchita, there was an equality of force. Such an occurrence would not have taken place had there been as great a disparity as in the present instance. The cases are not, therefore, parallel; and if the satisfaction of retaliation was sought for, the offenders have failed in their object: it is yet to be obtained.

I shall leave the Island to-morrow morning, with a heavy heart, and shall, without delay, communicate to my Government the melancholy result of my visit here, which was intended for the benefit of the civilized world in general.

With the highest respect, I have the honour to be, your Excellency's most obedient humble servant, D. PORTER.

Commodore Porter to the Captain General of Cuba.

U. S. SHIP PEACOCK, *Off Matanzas, 26th March*, 1823.

YOUR EXCELLENCY: I have the honour to inform you, that, in pursuance of orders from my Government, I have taken command of all the United States naval forces in these seas, for the protection of the commerce of the United States against all unlawful interruptions; to guard the rights both of property and person of our citizens, whenever it may become necessary; and for the suppression of piracy and the slave trade.

As great complaints have been made, of the interruption and injury of our commerce, by privateers, fitted out from Spanish ports, I must beg your excellency to furnish me a descriptive list of vessels, legally commissioned to cruise from Cuba, with a set of the blank forms of their papers, that I may know how and when to respect them, if I should meet with any of them.

I must also beg your excellency to inform me, how far they have been instructed to interrupt our trade with Mexico and the Colombian Republic, and whatever instructions or authorities they may have, affecting our commerce generally.

As to the suppression of piracy, the principal motive of my visit to these seas, is an object that concerns all nations, (all being parties against them, and may be considered allies,) I confidently look to all for co-operation, whenever it may be necessary, or at least their favourable and friendly support, and to none more than those most exposed to their depredations. I therefore look with confidence to your excellency, for the aid of such means as may be in your power for their suppression; and, in the absence of means, I beg leave to assure your excellency, that, whatever course may be pursued by me, to destroy those enemies of the human race, it will have no other aim; and I shall observe the utmost caution not to encroach on the rights, or willingly to offend the feelings, of others, either in substance or form, in all the measures which may be adopted to accomplish the end in view.

It will afford me sincere pleasure, should I be so fortunate as to fulfil the expectations of my Government, and at the same time preserve harmony and a good understanding with those with whom I may be so unfortunate as to come in collision or discussion in relation thereto. Indeed it will add much to my happiness, if it can be avoided altogether.

That such is my sincere wish, and that the objects set forth by me are the only ones which have brought me to these seas, I beg leave to assure your excellency in the most positive and unequivocal terms. With the highest respect, I have the honour to be, your excellency's very obedient and humble servant,

D. PORTER,

Commanding U. S. Naval forces in the West Indies and Gulf of Mexico.

To His Excellency *the Captain General of Cuba.*

[TRANSLATION]

Habana, *March* 29, 1823.

I feel much satisfaction in your arrival into these seas, with the commission, explained to me in your official letter of the 26th of the present month, which I am now answering; and I offer you at once a hearty welcome.

You are pleased to manifest, that there have been great complaints on account of the mischief committed on your commerce, by corsairs fitted out in the Spanish ports, and wish me to furnish you with a *description list* of the vessels lawfully authorized at the island of Cuba, for cruising; also, a set of blank forms of their papers, in order that you may know how and when to respect them, if you were to fall in with any of them.

In answer, I must state, that, as this business pertains exclusively to the *General Marine Command*, at this station, you will be pleased to address this Department for these objects of your requisition.

This Government, Commodore, [Senor Comodoro] anxiously desires, and loses none of the means in their disposal, to prosecute those enemies of the human race, even to annihilation: and you can be well assured, that, on all occasions, it is, and will be, ready to lend

every aid that is compatible with the territorial rights and privileges, to the nations co-operating for the extermination of these freebooters.

Deign to accept the considerations of my respect and friendship.

God preserve you many years. SEBASTIAN KINDERLAN.

Senor Don D. PORTER, *Commander of the Naval Forces of the U. S. in this sea.*

Commodore Porter to the Captain General of Cuba.

HAVANA, *April 20th*, 1823.

YOUR EXCELLENCY: Having been informed that an order has been issued by your excellency to the military commanders of districts in this island, forbidding the entrance into the harbours thereof of the squadron under my command, I have therefore to repeat to your excellency, that I came by the orders of the government of the United States, in aid of the local authorities, for the suppression of piracy, and for no other object, as I have always assured your excellency, and I have to beg of you, to prevent any unpleasant consequences from the existence of an order so hostile to the interests of Cuba, and so opposed to the friendly and benevolent intentions of my government, that your excellency will be pleased to cause it to be revoked as early as practicable; and that you will furnish me with a paper, bearing your excellency's signature, whereby the friendly character of the forces under my command may be made understood by the aforesaid military commanders, as well as by all others in authority, with whom I may come in contack; and your excellency will pardon me for urging, with great earnestness, this request, as the knowledge of this order has been the source of great uneasiness to me, particularly since an admission on the part of your excellency confirms its existence.

I have the honour to be, with the highest respect, your excellency's most obedient and humble servant,

D. PORTER.

To HIS EXCELLENCY *the Captain General of the Island of Cuba.*

Commodore Porter to the Captain General of Cuba.

U. S. STEAM VESSEL SEA GULL,
Allenton, Thompson's Island, 16th May, 1823.

YOUR EXCELLENCY: I have the honour to acknowledge the receipt of your communication of the 10th, with the circulars accompanying it; and beg leave to return my sincere thanks for your prompt and satisfactory reply to my application of the 4th of this month, as well as assurances of the high sense I entertain of the favourable disposition of the higher authorities of Cuba, towards the squadron under my command, which has been manifested by various acts that have greatly facilitated the execution of the duties entrusted to me; and it is the cause of great regret, that I should have been under any erroneous impression, with regard to orders of any kind, issued by your predecessor in office, in any

way, concerning the operations of my forces; and beg leave to offer as my apology, the assurances of those, who had stated to me that they had seen the orders; the admission of the Captain General, as understood by [the] officer whom I sent to him on this subject, that orders of a restrictive nature had been issued; the conduct of the Commandants of Mariel and Porto Cabanos; and information received from the Commandant of Bahia Honda, that some orders with regard to the forces under my command, had been received by him. The assurances of your excellency have put the subject forever at rest; and your circulars have relieved my mind from the serious apprehensions under which it laboured.

Permit me to embrace this opportunity to felicitate your excellency on your arrival; to assure you, that nothing but a severe indisposition has prevented my paying my respects in person; and to offer you my best wishes for your health and happiness. I have the honour to be, with the highest respect, your Excellency's very obedient servant,

D. PORTER.

Commanding U. S. Naval forces in the W. I. and Gulf of Mexico.

To his Excellency Don FRANCISCO DIONISO VIVES, *Captain General of the Island of Cuba and its dependencies.*

The Captain General of Cuba to Commodore Porter.

[TRANSLATION.]

HABANA, *10th May*, 1823.

In the last conference, which you had with His Excellency my predecessor, you, no doubt, became satisfied with the friendly demonstrations and sincere offers of this Government to that of the United States, unequivocally expressed by that chieftain, with explanations of the subjects of your doubts relative to his official letter of the 29th of March, in his last paragraph in answer to one from you, dated the 26th of the same month.

Having gained an understanding of this case, I have now the satisfaction of declaring to you, that this Government has not issued any order for prohibiting the entrance of the vessels, in the squadron under your command, into the ports of this Island; but, on the contrary, your squadron will meet with every aid and co-operation, on the part of the local authorities, in the pursuit of pirates, who may shelter themselves in the uninhabited coasts, compatible with the territorial privilege, conformable to the laws of nations. And I can do no less than assure you, that the Spanish Government, always a faithful observer of the rights pertaining to each nation, as well as jealous of their own, never would take measures of the kind to which you allude, without proclaiming their intention, with that frankness and clearness, which are its strong characteristics; and, in the present case, it has had no motive for acting contrary to the sentiments which it has heretofore expressed to you.

And that you may remain satisfied and convinced, I enclose to you circulars for the different commandants of the military stations on

this island, in order that they may afford you all the assistance necessary for the attainment of your important commission. With this, I consider your official letter of the 28th of last month, as answered.

This opportunity allows me the pleasure of offering my services to you, with the highest consideration.

God preserve you many years.

FRANCISCO DIONISIO VIVES.

Commodore DAVID PORTER, *Commander of the U. S. Squadron.*

Translated copy of a circular letter from the Captain General of Cuba, to the Commandants at the several military stations in that island:

Office of the Captain General of the Island of Cuba.

An American squadron, under the command of Commodore David Porter, being destined to cruise about the coasts of this island, in aid of our forces, who are engaged in a like enterprize, namely, the purpose of exterminating the pirates who infest our seas, and cause so much injury to commerce in general, without respecting any flag whatever: And it being an obligation of every civilized nation to annihilate such banditti, who, heedless of their duties in society, employ themselves in such execrable practises: I have thought it proper to give orders, that, wherever this squadron may arrive, and present itself to the constituted authorities, they must afford it every aid, which may be compatible with the territorial privilege and respect.

God preserve you many years.

FRANCISCO DIONISIO VIVES.

Habana, 10th May, 1823.

The Captain General of Cuba to Commodore Porter.

[TRANSLATION.]

HABANA, *30th June*, 1823.

I have received your official letters, one of which is dated on the 21st and the other on the 24th of the present month. In the latter, I observe a complaint of the conduct of the *provisionally appointed* Governor of Matanzas, towards an officer of the sloop of war Hornet. I have, consequently, already made arrangements for a close investigation of this subject, in order to convince you that no other sentiments animate this Government than what have already been manifested to you on several occasions, and from which it will never deviate; and, likewise, to satisfy you that its views are the same as those of the government of the United States, in the extirpation of the enemies of the human race, who have invested the coasts of this pacific Island; and I wish you to be fully persuaded that it will never be able to view with indifference any intentional insult, committed by its subalterns, on the officers of any nation engaged in so laudable an enterprize.

In regard to your letter of the 21st, I would say, that I will accomplish the objects of its contents without delay, among those who

are interested in their respective reclamations, applauding, at the same time, the just comparison which you make, of the rights of strict neutrality towards the nation whom I have the honour serving.

I renew to you my most distinguished consideration.

May God preserve you many years.

FRANCISCO DIONISIO VIVES

To Commodore DAVID PORTER.

A true copy: P. WILSON, *Secretary.*

Commodore Porter to the Governor of Cuba.

U. S. GALLIOT SEA GULL, *Allenton, Thompson's Island, July 13th,* 18[illegible]

YOUR EXCELLENCY: With a full confidence that they will be brought to condign punishment, I send you, to be tried by the laws of Spain, five pirates, taken on board two piratical vessels, by two of the barges of my squadron. I also send, by the same conveyance, two men, making part of the original crew of one of the vessels, when she fell into the hands of the pirates.

The witnesses being on the spot, will enable you to make the punishment prompt, and the example, I have no doubt, will be highly salutary.

With sentiments of the highest respect, I have the honour to be, your Excellency's very obedient and humble servant,

D. PORTER.

Commanding U. S. Naval Forces in the West Indies and Gulf of Mexico.

To his Excellency Don Francisco Dionisio Vives,
Captain General of the Island of Cuba, and its dependencies.

General Vives to Commodore Porter.

Office of the Captain General of the Island of Cuba.

HABANA, *24th July,* 1823.

I acknowledge the receipt of your official letter of the 13th of the present month, transmitted by the Schooner Ferret, with five individuals, under the character of pirates. These men were immediately put under the disposal of the Judiciary authority, in order that they might be judged in a manner accordant to our laws; and the Judge who was especially charged with the duty, has directed to me the following official statement of the result of his examinations:

"MOST EXCELLENT SIR: The commander of the American Schooner of War the Ferret, Mr. Thomas M. Newell, being examined, likewise the mariners whom he presented before me, and those whom he brought here as prisoners, by order of Commodore D. Porter, of whom three were, by the disposition of your Excellency, committed to the jail, and two to the Hospital of Saint Ambrosio, *characterised, as pirates.* An appearance has not resulted that they had an actual participation in the *invasions* and *robb-*

ties: they being brought to their condition by compulsion. But, as I have information that those who escaped, are now apprehended and carried to Matanzas, where a process will be instituted against them, and where the most sure means will be adopted for discovering the plain truth, I have considered it expedient to send these prisoners to Matanzas, hoping that your Excellency will be pleased to facilitate their transportation, with the necessary provisions, affording to the disposition of the judge of that district the means of determining, with clear understanding, what has been done, and what is now actually doing."

This copy is forwarded to you for your information and satisfaction. FRANCISCO DIONISIO VIVES.

Com. DAVID PORTER.

U. S. SHIP JOHN ADAMS, *November 12th*, 1824.

SIR: It having been officially reported to me, that an officer under my command, who visited the town of Faxardo, of which you are the Chief, in search of robbers and freebooters, who, with large amount of American property, were supposed to have taken shelter there, and bringing with him sufficient testimonials as to his object and character, was, after they were all made known to you, arrested by your order, by armed men, and shamefully insulted and abused in your presence, by the Captain of the Port, after which, he was sent by your orders to prison, and when released therefrom, was further insulted and abused, by the inhabitants of the town. His object in visiting Faxardo has by these means been defeated, and for these offences no atonement or explanations has yet been made.

The object of my visit is to obtain both, and I leave it entirely to your choice, whether to come with the Captain of the Port and the other offenders to me, for the purpose of satisfying me as to the part you have all had in this shameful transaction, or to await my visit at your town. Should you decline coming to me, I shall take with me an armed force, competent to punish the aggressors, and if any resistance is made, the total destruction of Faxardo will be the certain and immediate consequence.

If atonement for the injury is promptly made, those innocent of the offences will escape all punishment. But atonement must and shall be had, and if it is withheld from me, they will be involved in the general chastisement.

I shall hold the town and vessels in the harbour answerable for any detention or ill treatment of the officer who bears this letter.

I allow you one hour to determine on the course you will pursue, at the expiration of which time, if you do not present yourself to me, I shall march to Faxardo.

I have the honour to be, with great respect, your very obedient servant, (Signed,) D. PORTER.

To the ALCALDE of Faxardo.

U. S. SHIP JOHN ADAMS, *Thompson's Island, April* 15, 1824.

YOUR EXCELLENCY: I have the honour to transmit you copies of two resolutions of the Congress of the United States, in the House of Representatives, adopted on the 23d of December last, requiring that the Secretary of State be directed to ascertain and report to that House, "whether the Rocks called the Double Headed Shot Keys, or any other of the rocks or desert islets near the Bahama Banks, but separated therefrom by a deep channel, and in which the security of the navigation of the Gulf of Florida, requiring that Light-Houses or Beacons should be placed, are within the dominions of any and what foreign Kingdom or State; or whether they are not now subject to be appropriated by the right of occupancy;" and, secondly, "That the President of the United States be requested to negotiate with the Government of Great Britain for a cession of so much land on the Island of Abaco, at or near the Hole in the Wall, and on such other places within the acknowledged dominion of that power, or the Islands, Keys, or Shoals on the Bahama Banks, as may be necessary for the erection and support of Light-Houses, Beacons, Buoys, or Floating Lights for the security of navigation over and near the sand banks, and to be used solely for such purposes."

In consequence of these Resolutions, and a call made by the Secretary of State on the Secretary of the Navy, the whole subject has been referred to me, with instructions to obtain the necessary information thereon, to be laid before the Government, and I have the honour to solicit of your Excellency the information called for, with your opinion as to what portion of the Island of Abaco, near the Hole in the Wall, and what other places within the acknowledged dominion of Great Britain on the Islands, Keys and Shoals, as described in the Resolutions, may be necessary, for the purposes therein mentioned.

The description of the places should be made with sufficient precision with regard to topography, to be inserted in the articles of cession, if the consent of Great Britain to make it, should be obtained.

Such information as your Excellency may be enabled to furnish, without reference to his Britannic Majesty's Government, I shall be glad to have as early as convenient; and where reference is necessary, where the information may be obtained, I beg that I may be enabled to lay it before the Government of the United States, with as little loss of time as possible, in order that an object so desirable to the commercial world may be promptly undertaken and speedily executed.

I had hoped to have had it in my power to have done myself the honour to make this application in person, but circumstances connected with my public duties deprive me of the pleasure I had anticipated. With the highest respect, your Excellency's obedient servant, (Signed,) D. PORTER.

To His Excellency, Maj. Gen. L. GRANT, *Governor of the Bahamas*.

Official Communications to and from the British Officers in the West Indies.

Sir THOMAS COCHRANE, Captain of His Britannic Majesty's ship Forte, and commanding a squadron of H B. M. ships and vessels at Porto Rico,
To Commodore PORTER, commanding the United States' squadron in the West Indies and Gulf of Mexico.

HIS BRITANNIC MAJESTY'S SHIP FORTE,
Porto Rico, 6th March, 1823.

SIR: I avail myself of the opportunity offered by the United States schooner Grey Hound, to return you my best thanks for your ready attention to my communication of the 4th inst. as well as to renew the assurances of my sincere desire to cultivate that harmony and good understanding so happily existing between our respective countries, and in which I am only anticipating what I know would be the commands and wishes of my own government.

The extended view you have taken of the measures necessary to be pursued against pirates, in the orders issued to your squadron, must entitle you to the thanks of all nations who have commercial relations in these seas.

And I will not fail to communicate to Commodore Sir Edward Owen the signals by which the several vessels of your squadron may be known; and, in conformity to your wishes, I beg leave to enclose a signal by which the vessels on the leeward Island station may be recognized on meeting your cruizers, which I am sure the Commodore will cause to be communicated to the ships and vessels under his command, without loss of time.

With sentiments of the highest consideration, I have the honour to remain, sir, your most obedient humble servant,

THOS. COCHRANE.

Quadruplicate.

The Commodore Sir EDWARD W. C. R. OWEN, Knight Commander of the Most Honourable Military Order of the Bath, commanding a squadron of His Britannic Majesty's ships and vessels,
To Commodore PORTER, Commanding the Naval Forces of the United States of North America in the West Indies.

SIR: Captain Sir Thomas Cochrane, of His Britannic Majesty's ship Forte, having represented to me the particulars of his correspondence with you, upon the circumstances which occurred on the occasion of His Majesty's sloop Bellette, communicating with the Grey Hound, a schooner of war belonging to the Government of the United States of North America, and under your command.—I have great pleasure in adopting the signals which have been established between you for the recognition of the vessels of each squadron, by those belonging to the other; a measure well calculated, not only to prevent unnecessary interruption, but to ensure co-operation, if any case of mutual interest shall require it.

I hope to find in this measure, and in the conciliatory style of your reply to the representation which Captain Sir Thomas Cochrane thought right to make you, a firm foundation for that confidence, good will, and harmony, with which the officers of friendly powers should meet each other; and, I assure you, that I shall be at all times happy in what regards myself, to set a good example of this feeling, and to cultivate in those whom I command, the same good disposition with which I have now the honour to subscribe myself. Sir, your very obedient humble servant,

E. W. C. R. OWEN.

On board His Britannick Majesty's ship the Gloucester, in Carlisle Bay, Barbadoes, 22d March, 1823.

N. B.—Copy of an order issued with them is enclosed.

(*Extract.*)

E. W. C. R. Owen, Commodore.

Extract from a Report made by Captain Maclean, of His Majesty's *Brig* Bustard, to Commodore Sir Edward Owen, K. C. B. dated *Havana*, 5th July, 1823.

"On the 9th of June, the Speedwell came off the fort, when she "was despatched to Manati. On that day the United States schoon-"ers of war Fox and Weazel, with two barges similar to ours, ar-"rived, under the orders of Lieut. Watson, the commander of the "steam boat Sea Gull. He waited upon me, and most handsomely "offered to place his force under my orders, which I would not ac-"cept of, but stated, as we were employed upon a similar service, we "could mutually consult what measures were best to be observed, "and the pleasure we all felt in acting in concert."

"We were together sometime, and they never did any thing "without consulting me, and the utmost unanimity and friendship "was observed. On the 10th, sailed from Nilarra, two squadrons "in company, which were dispersed along the Coast. On the af-"ternoon of the 11th, we all anchored at Nuevitas.

"It took us to the 13th, making various researches, and board-"ing various vessels at the upper part of the harbour, which ex-"tends five leagues.

"We that day proceeded to Cayo Confites together, and in the "morning of Saturday, at day-light, observed two ships on shore "on the Chesterfield reef, Cayo Verde. We immediately despatch-"ed all our boats, and found them to be the American ship War-"rington, L. Dillingham, master, from Bordeaux to Havana, and "the Hamburg ship Cæsar, W. Janss, from Hamburg to Havana. "They had got on shore that morning at 4 o'clock. After every ex-"ertion was used to extricate them, without effect, we were under "the necessity of getting what cargo we could on shore on Cayo "Verde, and commenced their destruction, to prevent pirates "equipping from the wrecks.

"The Americans despatched, by mutual wish, the Weazel for

"New Providence, to provide vessels to carry away the cargoes, "which were most valuable, at least from two to three hundred "thousand dollars; but from the linens getting wet, made them of "little value. On the 18th, I despatched the barge to visit all the "Keys and Inlets to Boca Lagua la Grande, proceeding with the "Bustard towards Ginger Key, on Bahama Bank, and left the "Speedwell, with the American schooner Fox, and two barges, to "protect the property on Cayo Verde. I anchored that night on "the Bank, and the following morning had the misfortune to "break my anchor in purchasing it. We were anchored in a bot-"tom of sand and lime stone.

"It affords me much pleasure in stating the manner and conduct "observed by the United States squadron when we were at work on "the wrecks, as also on shore at Cayo Verde, where we had "guards placed, and the officers observed each others orders ac-"cording to rank, and our respective crews went to the senior offi-"cer for order and to make their reports while employed per-"sonally on board the wrecks or on shore."

"The American commander invariably came to me before com-"mencing any new service, for my sanction. They got their vessels "under weigh to pick our boats up, let us make use of their pilots, "and considered our squadrons as one."

The Commodore Sir Edward W. C. R. Owen, Knight Commander of the Most Honourable Military Order of the Bath, and Commander in Chief of his Britannick Majesty's Ships and Vessels employed in the West Indies and Seas adjacent.

To Commodore Porter, Commanding the Naval Forces of the United States, of North America, in the West Indies.

Sir: The chief command of His Britannick Majesty's ships and vessels in these seas, having devolved on me by the return of Rear Admiral Sir Charles Rowley to Great Britain; I avail myself of the occasion of His Majesty's ship Tyne passing near the rendezvous of the squadron under your command, to make known to you that circumstance; and to repeat to you the assurance that I shall always have great pleasure in cultivating with yourself, and between the officers and others we respectively command, that confidence and amicable feeling, which it is no less my inclination than my duty to preserve, by all means in my power.

I take the opportunity, at the same time, to enclose you the counter-part of a letter, which I had the honour of writing to you from Barbados; and which has been forwarded by several vessels, with the hope of reaching you.

I beg, also, further to acquaint you that, after a patient investigation in a Court of Vice Admiralty in this island, the captain and nineteen of the crew of the pirate schooner Zaragozana, captured by the boats of His Majesty's ships Tyne and Thracean, after communicating with you in the Bahama channel in the month of March, have been condemned to death.

And, that the trial of three others, forming with the exception of those who gave evidence, the remainder of those captured by the boats, has been deferred, to allow them to procure some proof, which they consider will be favourable to them.

This, together with the numerous vessels which have been destroyed of late, I hope will give a check to the nefarious practices of these remorseless depredators, and relieve the peaceful trader from all fear of future outrage.

And, in the hope of seeing this great end accomplished, by the exertions of the several individuals we respectively command, in which we may preserve a commendable rivalry, I have the honour to subscribe myself, sir, your very obedient and humble servant,

E. W. C. R. OWEN.

On board His Britannick Majesty's ship the Gloucester, in Port Royal Harbour, Jamaica, 19 May, 1823.

Commodore Sir Edward W. C. R. OWEN, Knight Commander of the Most Honourable Military Order of the Bath; Commander in Chief of His Britannic Majesty's Ships and Vessels, employed in the West Indies, and the Seas adjacent,

To Commodore DAVID PORTER, Commanding the Naval Forces of the United States of North America, in the West Indies and Gulf of Mexico.

SIR: I avail myself of the arrival of the schooners Grey Hound and Beagle, to acknowledge the receipt of the letter which you did me the honour to address to me on the 12th of June last, enclosing one for Captain Sir Thomas Cochrane, commanding His Britannick Majesty's ship the Forte; and I shall not fail to transmit the gratifying assurance which it contains, that, the respect it was his pride and duty to shew to the remains of a gallant officer, whose estimable qualities had endeared him to his brethren, and to those who best could estimate his worth, had been received with satisfaction by yourself, and the several officers under your command.

He will receive, with pleasure, that testimony of the interest which you take in promoting and improving the sentiments of mutual good-will which hitherto have marked the intercourse of the vessels of our respective squadrons, a disposition which, I trust, the confidence that we reciprocally manifest, will confirm and render still more perfect.

I am happy to enclose you a gratifying proof of this improving sentiment of good-will, in an extract from a report which has been made to me by Captain Maclean, of His Majesty's brig of war Bustard, making known to me how perfectly a small detachment from your force, commanded by the Lieut. Com. Watson, has co-operated with him in the service which I had entrusted to his guidance; and, I beg that I may be permitted to express the pleasure that communication has afforded me.

I am happy, further, to acquaint you, that a piratical schooner, which had been cruising in the vicinity of the Isle of Pines, was driven on shore, and captured by the schooners Lion and Union.

under my command, on the 5th June; and, though the crew escaped on shore, I am glad to learn by some Cuba papers, that a party which had been ordered by the Commandant of Trinidad to pursue them into the interior, had been successful in taking a considerable number of them.

I cannot close this letter, without offering you my congratulations on the success attending the exertions of Captains Kearney and Newton, in destroying the piratical establishment at Cape Cruz, in which vicinity a row-boat had, a short time back, been stated to have robbed some smugglers.

Although your squadron has not been fortunate in capturing the crews of pirates, who, since the affair of the Zaragozana, are cautious in committing themselves, by a resistance which denies escape, yet, the judgment with which your squadron is distributed, and the perseverance which your officers have shewn, under circumstances of great deprivation, have not been unrewarded; and, to these causes, we may attribute truly a considerable portion of the comparative security which the merchant vessels, passing through the Gulf, have felt since its arrival.

I trust success will still mark the exertions it is making for the general benefit—Whilst I have the honour to remain, with sentiments of sincere respect, your very obedient humble servant,

E. W. C. R. OWEN.

On board His Britannick Majesty's ship the Gloucester, in Port Royal Harbour, Jamaica, the 28th July, 1823.

HIS BRITANIC MAJESTY'S SHIP GLOUCESTER,
In Port Royal Harbour, Jamaica, the 23rd of September, 1823.

To Commodore Porter, Commanding the Naval forces of the United States of North America, in the West Indies.

SIR: I have had no opportunity since the arrival of His Majesty's brig the Bustard, of forwarding to you the sincere acknowledgments that I so justly owe you, for the kindness and attention which you lavished on that vessel's sick and helpless crew, when her Captain thought it right to seek refuge at your rendezvous.

In my own name and that of Captain Maclean, and of every officer and man belonging to her, I beg you will accept my warmest thanks, not only as the attentive care with which you watched the progress of that afflicting malady was consoling to the sufferers in the depression which attends disease, but as your own experience was made useful in the anticipation, and your stores were generously applied to the removal of their wants, even to your own deprivation, in cases where the infant state of your establishment did not enable it to supply them otherwise.

I have charged Captain Stafford, of His Majesty's sloop Carnation, if he has the good fortune to meet you, personally to repeat, how sensibly I feel, and how highly I value, the humane and liberal sentiments which have governed you herein.

The necessities of the Bustard took largely from your supply of medicines and medical comforts: these I request permission to replace—and as arrow-root and castor-oil are native productions here, and not only abundant, but I hope good, I have given directions for a small quantity of each to be put up, and I request you will do me the favour to apply it to the comfort of any of your people who require it.

Whilst I sincerely hope that no case will happen, to call on me for a return of kindness, such as leaves me now so much your debtor. I will likewise hope, all future intercourse between the officers of our respective services, may be marked like this—by frank and liberal sentiments, such as best can soften prejudice, and lead them to a just and proper estimation of each other.

It will be my duty to lay the Report of Captain Maclean, before the Lords Commissioners of the Admiralty of the United Kingdom; in doing which, I shall have pleasure likewise in repeating the sentiments I here convey to you, as I have now in renewing the expressions of consideration and esteem, with which I have the honour to remain, sir, your most obedient humble servant,

E. W. C. R. OWEN,

Commodore Commander in Chief of H. B. M. ships and vessels in the West Indies.

Captain Roberts, of his Majesty's ship Thracian, presents his compliments to the American Commodore, and would have had the pleasure of waiting on him, but is indisposed.

He begs to inform the Commodore, that the vessels at anchor are H. M. ships Tyne and Thracian—that all the boats of both ships are away on the coast, under Captain Wolcott, of the former ship. They have been away three days, and are expected back. Both ships have been on the coast, this side of Anguilla, for five weeks, and have taken nothing. The boats have been often away; and about nine days back, being off Ensenachos, the Thracian's boats chased amongst the Keys a small schooner, and three row boats, having with them a merchant sloop, apparently American. Not knowing the coast sufficiently, the boats could find no passage within sand banks, and were obliged to carry them over three. The sloop was aground, and threw all her cargo overboard, consisting of flour; but the other vessels went away to westward, within the Keys, with a breeze. Night coming on, and it blowing strong from N. N. E. the boats returned.

Captain Roberts will feel obliged to the Commodore, for any information or papers;—and if he has any thing to send to Jamaica, will be happy to convey it, as the ships are about to proceed there shortly.

H. M. S. THRACIAN, 15*th March*, 1823

H. B. M. S. Bustard, Key West, July 23rd, 1823.

SIR: I beg leave to acquaint you that, in cruising in the Old Bahama channel with a small squadron under my orders, I had the good fortune to meet at Port Xilarra with a detachment of yours, under the orders of W. H. Watson, Esq. employed upon a similar service to myself; we were together a considerable time, and on two merchant ships being wrecked upon a reef of Cayo Verde, it afforded us the pleasing opportunity of acting in junction, both afloat and on shore, and I feel most sincere satisfaction in having the honour of reporting the unanimity and cordiality which was invariably observed. To Capt. Watson I consider myself personally indebted for his friendly attention, and desire of keeping up an interchange of information which is most gratifying for officers to meet with from each other, when pursuing the same object. I have come to this anchorage for the express purpose of making this communication, and felt a pleasing duty representing the same to Commodore Sir Edward Owen, whose orders to me were to co-operate with your forces, if it met the wishes of those officers I might have the pleasure of meeting with.

I have the honour to be, with every sentiment of respect, and esteem Sir, your most obedient and very humble servant,

R. MACLEAN, *Commander.*

Commodore PORTER, &c. &c. &c.

SEA GULL, PORT RODGERS, *July 25th*, 1823.

DEAR SIR: I have the pleasure to acknowledge the receipt of your letter of the 23rd, communicating the circumstances of your co-operation with part of my forces in the Old Straights in the pursuit of pirates, and in the rescue of the cargoes of two merchant ships, wrecked near Key Verd, of your satisfaction in reporting the cordiality which prevailed, and making an offer of future co-operation.

On the return of Lieut. Comd't Watson from his expedition, the representations made by him to me, of the conduct of yourself and officers, on all transactions wherein you were mutually engaged, was most gratifying to me, and gave me a high opinion of your character which I find loses nothing on acquaintance.

It will afford me, as I am sure it will every officer under my command, sincere pleasure to co-operate with you, or any other British officer, against our common enemy. So long as the same cordiality of feeling which has been manifested by you shall prevail.

It will be highly gratifying to me if the British officers on this station will visit our little establishment more frequently, and although we have not much to offer them, we can assure them of a hearty welcome.

With great respect, I have the honour to be, your very obedient servant, (Signed,) D. PORTER.

To Capt. R. MACLEAN, *H. B. M. Brig Bustard.*

H. M. S. Bustard, Thompson's Island, August 8th, 1825.

DEAR SIR: your having placed in my hands an account transmitted you of an act of piracy, committed by the capture of the American Brig Two Brothers, of Newbury Port, I beg leave to acquaint you, for the information of those concerned, that upon the 11th of May last, I visited Cumberland Harbour, in the S. E. end of Cuba, with H. B. M. Sloop under my command, and found a vessel precisely the description; she was at anchor in the river Augusta, about a mile and a half from the entrance, and had been removed there by the Spanish authorities, whose charge she was under; the pirates had plundered her of every thing on their abandonment, at that port. The particulars of her capture by them was furnished me in a conversation with Don Jose De Lara, Captain of the party at the district of Ma. Catalina, as also by Corn's O'Callaghan, a planter in that neighbourhood, and the fishermen in the harbour, their depositions appear to coincide exactly with the description and account you have furnished me of the said vessel. The Commandant (or Capt. of the party as he is called) further informed me, that some of the pirates who brought her in had been apprehended, and sent to the authorities of St. Jago de Cuba. I sincerely trust this may lead to the condign punishment of such an execrable act, and have the honour to remain with esteem, dear sir, yours, most respectfully,

R. MACLEAN

To Commodore PORTER, &c. &c. &c.

H. M. S. CARNATION, *Havana, Jan. 10th, 1825.*

MY DEAR SIR: Your kind and obliging favour of the 3rd inst. I have had the pleasure of receiving, and feel happy to hear of your good health. The improvements you are making at Thompson's Island will be of great use to the naval establishment; I regret to hear from Lieut. Liandet you have several cases of intermitting fever in the hospital, but I am in hopes when you clear away a little more wood and drain the swamps, the place will become healthy. We have no news of consequence here. Several reports of piracy, notwithstanding our numerous force round the island. We have five vessels of war upon the south side, and the same number on this; but, excepting we have a *proper co-operation* from the shores of Cuba, it is my opinion the United Navy of America and England would not effectually suppress piracy; they ought to insist upon hanging a few of the villians (who are now in confinement here for that crime,) at the entrance of some of the principal harbours in this island; *such an example* would be attended with universal benefit. A Spanish squadron, consisting of a frigate and two corvettes, will leave this upon Wednesday, for the Castle of San Juan de Ulloa, taking down five hundred soldiers; we hear they are in a very bad state there, and without immediate succour, must surrender. The Dartmouth Frigate, Capt. the Hon. J. A. Mande, has relieved me, and I sail in a few days for Jamaica direct. I can not yet say where my next cruise will be, but I hope to have an opportunity of visiting the United States shortly. The Dartmouth

and three schooners are searching all the Old Channel of Bahama, and the Ferret is also in that direction. I beg you will offer my best respects to Mrs. Porter and family when you write, as also to Captain Dallas. I shall be happy to be the bearer of any letters, &c. from him to his relations in Jamaica. I shall not leave this before Thursday morning, therefore if any vessel comes over, he will have an opportunity of writing them.

Believe me always with sincere respect and esteem, my dear sir, yours truly, R. MACLEAN.

Com. D. PORTER, &c. &c. &c.

Miscellaneous Correspondence on the General subject of Piracy and Convoy, &c.

TRINIDAD, *Cuba, May 19th*, 1823.

DAVID PORTER, Esq.

DEAR SIR: We have the pleasure of acknowledging the receipt of your esteemed favour of the 16th ult. with the inclosed information to American merchants and ship masters. We are sorry to observe that it is not in your power to send any protection on this side of the island for the present, in consequence of the want of men. We have to assure you, one or more small vessels are much wanted to cruize between Cape Cruze this and Cape Antonio, for the protection of American vessels—at present there is two pirates off cruizing between this and Cape Briton Key Quego, and it is impossible for us to say what depredations they may commit on the unarmed American flag; and we are sorry to say, there is no armed vessel in port to send after them—we have therefore to hope your immediate attention will be drawn to the safety of American vessels coming and departing from this. We have no doubt but you are acquainted that those piratical vessels are generally fitted out from different ports in this island, and that they have their friends on shore, which in one sense, is their protection towards piracy.

We remain, with the greatest respect, your most obedient humble servant, TATE S. GRAWNING.

CONSULTATE OF U. STATES, *Alvarado, 10th Oct.* 1824.

SIR: I have just received positive information that an American vessel, Brig Cato, Hugh Dulany, (master) has been boarded and robbed, at Tabasco, at a place called Escovas, twelve leagues below Villa Hermosa, the principal town. The master and three men wounded. This vessel, together with another, the schooner Leader, both of Philadelphia, require protection, which I have no doubt you will promptly afford them. It is desirable, your vessel permitting it, that you proceed to Tabasco before entering this port. The masters of the aforesaid mentioned vessels are said to have landed their guns on the beach, and there formed a battery for their protection.

I am, sir, with great respect, your very humble and obedient servant, WILLIAM TAYLOR.

Lt. Comd't CHAS BOARMAN, *U. S Schr. Weasel.*

ANCHORAGE OF SACRIFICIO, *October 4,* [illegible]

Com're D. PORTER, *Commanding the U. S. Squadron, Thompson's Island.*

SIR: Forty-eight hours after sailing of the U. S. ship Hornet from the port of Vera Cruz, the castle of St. John De Ulloa, opened its fire on the town and forts of Vera Cruz, which has continued from the 25th of last month, to this day at intervals, always answered by the Mexican forts; the injury done on either side is very trifling, but commerce is driven down from Vera Cruz, and must resort to other points. Alvarado, a bar harbour, 36 miles S. E. from this place, admitting vessels of 11 feet, is the point which, in all probability, will be most resorted to.

It is impossible to foresee the termination of these hostilities, and should the Spanish authorities of Cuba support the governor of Ulloa, in his mad attack, it is somewhat probable, that a blockade of Alvarado, and of the Mexican coast generally, may be undertaken. In such an event, the property of the citizens of the U. S. to a considerable amount, may be placed in imminent hazard, and will require to relieve it from jeopardy—some interference on the part of our government and of our Naval force.

Three are at present in the port of Alvarado, the schooner Fame, of Philadelphia, and a schooner from New Orleans; the brig George, and the schooner Tom, both of Philadelphia, sail from this anchorage on to-morrow, for the same port; several vessels from the U. S. richly laden, are daily expected, and from the interior, a considerable sum is expected, belonging to citizens of the U. S. and intended to be shipped for our country.

I deem it my duty to apprise you of these circumstances. Your patriotism and vigilance have no doubt with me, that you will promptly adopt such measures as the case may require.

With much respect, I have the honour to be, sir, your most ob't servant,

T. REILLY.

Vice Consul of the U. S. for the Port of Vera Cruz.

NEW ORLEANS, *April 15th,* 1822.

SIR: A most atrocious act of piracy, has been committed in Campeachy Bay, on the American brig Belisarius, attended by the murder of her captain and cook in a most shocking and cruel manner; and calls for every effort to bring the perpetrators to punishment. It also appears from the statement of the mate, and such of the crew of the Belisarius as have been examined, that at the time this act of piracy and murder was committed, there were several other vessels in sight, which, from hoisting the same flag with the vessel committing the act, must be of the same character.

With the view of destroying this piratical association, bringing the guilty to punishment, and affording protection to the commerce of the United States, in the Gulf of Mexico, now very valuable, I have determined to retain the United States' schooner Grampus, under your command, on that service, until the pleasure of the Department shall be known.

Proceed therefore with the United States schooner Grampus to the bay of Campeachy, in pursuit of the piratical vessel or vessels above mentioned, "looking into as many of the ports and inlets, on the Spanish coast in your route, as safety, and the nature of the service will permit, with the view of discovering any piratical vessels, and to afford protection to merchant vessels of the United States." In the detention or capture of vessels, you will govern yourself by the general cruising instructions and laws for the suppresion of the slave trade, and punishment of piracy, furnished you by the Navy Department.

Afford convoy and protection to any merchant vessels of the United States, that may be bound from this to any ports on your route, and give notice at such ports as you may touch, that you will occasionally call off those ports, and give convoy to this port, Mobile, or Pensacola, particularly at Campeachy, Tabasco, Vera Cruz and Tampico; from which ports, large remittances in specie are expected here. Communicate with me by such opportunities as may offer. I am, very respectfully, sir, your obedient servt,

DANL. T. PATTERSON.

To Lieutenant Commandant FRANCIS H. GREGORY,
U. S. Schooner Grampus, New Orleans.

(*Extract.*)

NEW-ORLEANS, *December 27th*, 1823.

"The success that has attended your exertions, in the punishment and suppression of piracy, has surpassed the most sanguine expectations of our country, and justly called forth the best feelings towards yourself, officers and men.

"The merchants here were much pleased by the arrival of the Wild Cat; and if you could spare a small vessel, to touch periodically at Alvarado, Vera Cruz, and Tampico, and thence to this port, the commerce of this port would be very materially benefitted thereby. From those ports, and particularly Tampico, large sums in specie are frequently shipped to this place, and, from want of opportunities by vessels of war, they are obliged to risk it on board small merchant schooners; and could you establish a regular conveyance, by a vessel of war, the shipments would be greatly increased. Applications are frequently made to me, to know whether you would send any of your vessels to those ports, and permit them to transport specie to this place. Early part of this month, a small schooner brought up from Tampico $250,000, at once, which would have been put on board a vessel of war in preference, had one been there; the commission on which would have been 2 1-2 per cent. A most essential service would be rendered to the merchants of this place by such an arrangement, and protection afforded to a most valuable and rapidly increasing commerce in the Bay of Mexico, and, I hope, prove advantageous to yourself and officers. Any assistance I may be able to render you, will be most cheerfully afforded." (Signed) DAN'L T. PATTERSON.

Com. DAVID PORTER, &c. &c.

that Island, one of which is taken by the *Patriot* cruizer Constitution, two others are laid up at Mayaguada, and one was spoken by part of my squadron on the South side of Porto Rico.

There is one privateer from Porto Cabello called the Esperanza which sailed from St. Johns on the 20th January last.

I spoke a British squadron off St. Thomas, which afterwards went to St. Johns, consisting of a frigate and two sloops of war, being part of the force under Commodore Owings, and bound to the leeward station.

I also found two British sloops of war at Cayo Confites, searching for pirates. They had been on that service five weeks, and taken nothing. They informed me that they had burnt a house and flag staff at Key Encenachos, therefore if we should be charged with the act, I beg you to set the matter right.

At St. Johns an extremely melancholy occurrence took place, by the firing of the batteries on one of my small schooners, which resulted in the death of her commander, Lieut. Com. Wm. C. Cocke.

The affair will occasion great excitement in the United States, and cannot be justified on any principle. The Captain General has endeavoured to atone for it by his regrets, but nothing short of the punishment of the officer who gave the order to fire on my squadron, will or ought to satisfy the Government and people of the United States.

We enjoy unusually good health in our squadron, and I feel disposed to preserve it by avoiding Havana, which is the reason of my not visiting it now.

Have the goodness to let me know where our vessels on this station are, and all you know about them.

With great respect, I have the honour to be, your most obedient servant. (Signed.) D. PORTER.

JOHN WARNER, *Esq. American Consul, Havana.*

U. S. SHIP PEACOCK, *Thompson's Island, April 5th*, 1823.

SIR: By a small expedition under Capt. Cassin, I send you this, and it is likely you will often hear from me in this way hereafter.—If any vessels arrive, another will leave here in a few days, and I hope hereafter, when I get organized, to afford regular convoy from Havana every Saturday morning, as I now do from Matanzas every Sunday.

I have not much more than half the force that I calculated on, in consequence of the vessels having unexpectedly left the Coast of Cuba before my arrival. I shall do all I can with whatever force I may have, and I think I shall be able to give our trade effectual protection, and at the same time keep the pirates on the look out.

I have not yet received the letters I understood were sent to Matanzas. With great respect, your obedient servant,

(Signed.) D. PORTER.

JOHN WARNER, *Esq. American Consul, Havana.*

that their approach to the island may not be discovered, then surprise them, and prevent their escape.

The commerce between this port and Tabasco, Sical and Campêche, is already very valuable, and fast increasing. Information relative to these pirates, and their movements, will be given by the Governor of Sical, where it is advised to call, before proceeding to Mohair Key.

The boat that captured the Harriet and Lucy, came out from the River St. Pedro, distant from Tabasco River only a few miles.

I have the honour to be, with great respect, your obed't serv't,

DAN'L T. PATTERSON.

Com. DAVID PORTER, *Comd'g U. S. Naval Forces in the West Indies and Gulf of Mexico.*

(*Extract.*)

NEW-ORLEANS, *March 31st*, 1824.

"I had the pleasure to write you by the Wild Cat, Lt. Wolbert. The schooner mentioned in that letter, has made several trips to Tampico, and each time brought large sums in specie, and a small schooner lately arrived from thence with upwards of a million of dollars in gold doubloons: 'tis said a large amount is ready for shipping to this place, and waiting a secure conveyance—much of it American property. The best interests of our country, it appears to me, are promoted by the introduction of such large amounts of specie. I wish you would detach a small vessel or two to me; I could find employment for them beneficial to the public service."

(Signed) DAN'L T. PATTERSON.

Com. PORTER, &c. &c.

(*Extract.*)

NEW-ORLEANS, *May 20th* 1824.

"SIR: I received, with great pleasure, your letter of the 25th ult. by Lt. Ritchie. The arrival of the Fox, to be employed between this place and Tampico, has given general satisfaction to the merchants of this city, and indeed to the whole community; and I shall endeavour to make it beneficial to you, at the same time that it proves so to the public. Lieut. Ritchie leaves this this afternoon, to join his vessel at the Balize, and will sail immediately for Tampico, should this city be, (as I much fear it will,) afflicted this summer by an epidemic. The small vessels can rendezvous at Barataria, where they can receive any supplies they may require, without delay, from the city, and without exposure to the disease of the city; they can also there obtain fresh provisions in abundance.

We have all been gratified by the visit of young Farragut, of whom we have formed a high opinion; he has given us most gratifying information of you, Mrs. Porter and your family. This will, I presume, find you preparing for your return to the United States, as Lt. Ritchie informs me, you will probably do in all the ensuing month.

Piracy is now quite down, and will want only a force in the West Indies cruising, to keep it so. I have not heard of any act of piracy or force since my letter to you on the subject. Should I learn of any, it shall be immediately communicated to you."

Very truly, yours, &c.

(Signed) DAN'L. T. PATTERSON.

Com. PORTER, &c. &c.

(*Extract.*)

SEA GULL, PORT RODGERS, *July 19th*, 1823.

I notice what you say relative to the agitations which prevail in Cuba, and have in consequence, sent the schooner Fox to cruize off Havana, and to communicate with you every day.

If, in your opinion a sloop of war will be necessary to take on board the specie of our merchants, and other valuable property to transport to the United States, or to this place, for temporary security, please to give me the earliest intelligence, and one shall be sent.

Lieut. Comd't Ritchie has orders to return to this place with any communication you may have to make to me. With sentiments of respect and esteem, your obedient servant,

(Signed,) D. PORTER.

Directed to Messrs. CASTILLO, BLACK, & Co. *Havana.*

U. S. SHIP PEACOCK, *Thompson's Island, April 5th*, 1823.

SIR: I have received your favour of March 28, and regret extremely my inability to comply with your wish at this moment in keeping a stationary force off Havana, in consequence of those vessels having left the station before my arrival, which I confidently expected to find here, and intended for regular convoy.

I have been under the necessity of employing some of my small vessels to convoy from Matanzas, and so soon as some others of them arrived which are now to leeward of Cuba, I shall make a similar disposition with regard to Havana.

This you may rest assured of, that whatever force I may have at my disposal, I shall endeavour to employ it so as to afford the most effectual protection to our trade.

Hoping that your family have ere this arrived in safety,

I remain with great respect, your obedient servant,

(Signed,) D. PORTER.

GEORGE KNIGHT, Esq. *Havana.*

NUEVITAS, *16th April*, 1823.

SIR: although I have not the pleasure of knowing you personally, I know well your merit and your fame.

This will be handed you by Capt. Legare; he has rendered, and is rendering, services to our country, in company with his brother officers, on this unprotected coast.

As I know well your desires to be universally useful, I take the liberty to recommend to your attention this part of the Island. I do firmly believe, that you cannot better employ a respectable vessel of war in any situation, than on this coast from Sugar Key, to Orange Harbour. Our vessels trade considerably to this place, and frequently suffer by piratical boats.

I wish you may find it convenient to order one of your vessels of war to this place, in about twenty days, to convoy out a schooner bound for New York.

I am your obedient servant, JOHN OWEN,

Commodore DAVID PORTER, *Commanding U. S. Naval forces West Indies, Gulf of Mexico &c.*

U. S. SHIP PEACOCK, *Off Matanzas, 26th March,* 1828.

SIR: By a brig bound to Havana, I embrace the opportunity to send you an extract of a letter from the Captain General of Porto Rico to me, dated the 6th inst. in reply to certain inquiries relative to the privateers fitted out from the Island, and their authority for interrupting our commerce with the Main.

The information it contains is interesting to our merchants, and I beg you to give it publicity.

I am now bound into Matanzas, to wait for the boats of this ship, which, with the greater part of her crew, and some small schooners, have been near a week absent among the Keys, on the South side of the Old Streights.

We have examined all the Keys on the other side, and have thoroughly sounded the North sides of Porto Rico, St. Domingo, and Cuba, as far down as Cayo Confites. I have sent small vessels down the North sides of these Islands, to examine every place where a pirate would be likely to be found, and have despatched the Shark to scour the Coast from Caraccas to La Vera Cruz. I have made the most of the force under my command, but the result of all the operations I cannot know until I arrive at Thompson's Island, where they will rendezvous.

I hope to be there in a few days, and shall soon visit Cuba again. In the mean time, I beg you to write to me at Matanzas, and give me all the information you can about the pirates, and if at any time you get intelligence of them, which it is desirable I should have soon, it will be well to despatch a boat to Thompson's Island with the information, the expense of which I will cheerfully pay.

I send you a letter for the Captain General, which I beg you, after reading, to seal and present to him. You will perceive the necessity of a speedy reply, but I fear one cannot be had before I leave Matanzas. I shall, therefore, leave behind me a vessel to bring the answer, which you had better send under cover to one of the American merchants, (or Consul or Commercial Agent, if there be one established there,) to deliver to the commander.

By a list furnished me from the Captain General of Porto Rico, it appears that only four privateers are commissioned to cruise from

that Island, one of which is taken by the *Patriot* cruizer Constitution, two others are laid up at Mayaguada, and one was spoken by part of my squadron on the South side of Porto Rico.

There is one privateer from Porto Cabello called the Esperanza, which sailed from St. Johns on the 20th January last.

I spoke a British squadron off St. Thomas, which afterwards went to St. Johns, consisting of a frigate and two sloops of war, being part of the force under Commodore Owings, and bound to the leeward station.

I also found two British sloops of war at Cayo Confites, searching for pirates. They had been on that service five weeks, and taken nothing. They informed me that they had burnt a house and flag staff at Key Encenachos, therefore if we should be charged with the act, I beg you to set the matter right.

At St. Johns an extremely melancholy occurrence took place, by the firing of the batteries on one of my small schooners, which resulted in the death of her commander, Lieut. Com. Wm. C. Cocke.

The affair will occasion great excitement in the United States, and cannot be justified on any principle. The Captain General has endeavoured to atone for it by his regrets, but nothing short of the punishment of the officer who gave the order to fire on my squadron, will or ought to satisfy the Government and people of the United States.

We enjoy unusually good health in our squadron, and I feel disposed to preserve it by avoiding Havana, which is the reason of my not visiting it now.

Have the goodness to let me know where our vessels on this station are, and all you know about them.

With great respect, I have the honour to be, your most obedient servant. (Signed.) D. PORTER.

JOHN WARNER, *Esq. American Consul, Havana.*

U. S. SHIP PEACOCK, *Thompson's Island, April 5th*, 1823.

SIR: By a small expedition under Capt. Cassin, I send you this, and it is likely you will often hear from me in this way hereafter.—If any vessels arrive, another will leave here in a few days, and I hope hereafter, when I get organized, to afford regular convoy from Havana every Saturday morning, as I now do from Matanzas every Sunday.

I have not much more than half the force that I calculated on, in consequence of the vessels having unexpectedly left the Coast of Cuba before my arrival. I shall do all I can with whatever force I may have, and I think I shall be able to give our trade effectual protection, and at the same time keep the pirates on the look out.

I have not yet received the letters I understood were sent to Matanzas. With great respect, your obedient servant,

(Signed.) D. PORTER

JOHN WARNER, *Esq. American Consul, Havana.*

(*Extract.*) U. S. Ship Peacock, *Allenton, April 10th*, 1823.

Sir: This will be handed to you by Lieut. Com. L. Kearney, of the Grey Hound, who with four schooners is charged by me with the protection of our commerce at Havana and Matanzas.

He will give convoy from Havana every Saturday, and convoy will be given from Matanzas every Sunday. It will, however, be necessary to clean the vessels soon, and we have had no opportunity of doing any thing to them since they left the United States.—You will be informed when this is to be done, in order that the merchants may make their arrangements accordingly.

(Signed,) D. PORTER.

Directed to John Warner, *Esq. American Consul, Havana.*

Sea Gull, *Allenton, June 7th*, 1823.

Sir: On the 1st and 15th of every month, one of the armed vessels under my command, will leave Havana for the United States, with convoy, and her letter bag will be left at the Counting House of Messrs. Castillo, Black & Co.

Will you have the goodness to apprize the merchants of this arrangement, that they may avail themselves of the opportunities?

Very respectfully, your obedient servant,

(Signed,) D. PORTER.

Jno. Mountain, *Esq. Consular Office.*

Matanzas, *March 29th*, 1823.

Sir: We, the undersigned, representing the commercial interest of the United States, at this port, beg leave respectfully to greet you on your arrival among us.

The pleasure which, as Americans, in a foreign land we should always experience in seeing the national flag of our country, waiving over the head of one of her most esteemed commanders, is in this case sensibly increased, by the state of almost total abandonment in which we were left previous to your arrival—and the confidence which your character inspires, in constant and complete protection in future to our suffering commerce in this quarter. From the commencement of piratical depredations in these seas, the immediate vicinity of this place seems to have been a favourite scene for their operations. The numerous, secure, and intricate harbours above and below this place, to which they carry their prizes and plunder—the absence of any Spanish naval force, at the disposal of the Governor of this place, and the very unfrequent appearance of vessels of war of any nation in our harbour, has emboldened the buccaneers to acts of audacious villiany, which would scarce be credited by persons near the scene of their perpetration, and accustomed to a different state of society. Vessels of the most contemptible force, and even open boats, have made captures almost in the mouth of the harbour, in as fearless a manner as

if their pursuits were lawful and proper; and with a knowledge of the actual existence of a force of this kind blockading the port, we have been without the smallest means of relief—and vessels have waited from ten to twenty days for convoy, and finding no prospect of obtaining any, have collected in fleets, and braved the danger—some have escaped, some been fortunate enough to repel their assailants, and some have been captured.

A day or two after an attack on the brigs Neptune, Bondoni, and Abeona, in which the pirates were repulsed, but remained still in the neighbourhood;—information was communicated to Captain Biddle, of the Macedonian, who, with the United States' brig Spark, was then at Havana, and convoy solicited for seven vessels then here; but no answer was received, and after waiting many days, they started without one. It is now but little less than five months, since the blood of Allen stained the waives of Seguapa—since the foe was *left in possession* of that bay; and we believe that to this hour it is infested by these desperadoes; but the immense amount of property for which it has been the receptacle, is notorious and acknowledged; yet in all the period we have named, we are ignorant of its having been explored by any armed force, or at any attempt having been made to ferret out the pirates from this, their principal retreat. Nor has convoy been afforded, except on two occasions during that time. We are well aware that the limited extent of the American trade to this port, where only about two hundred and twenty vessels enter and clear annually, may not justify a large force for its protection—but when we reflect, that in protecting it you cover also the commerce to Havana, Pensacola, and New Orleans, as is proved by the fact that *four out of five* of the vessels recaptured by the Alligator, were bound to the two latter ports, and were captured very near here—and that a very small force is amply sufficient for the purpose;—we are well assured you will grant it, and agree with us, two or three schooners cannot be better employed, than in guarding so important a thoroughfare. We conceive that two small, and one large schooner, would be sufficient to afford weekly convoy from hence, which would be as often as necessary. And in convoying vessels outward bound from hence, those coming from the U. States would also derive the benefit of it. At this particular conjuncture, we beg to state that there are in port many vessels which will be ready for sea from the middle to the end of the coming week, and respectfully request, that the schooners now about to proceed with the fleet, may return as soon as convenient, to take the above mentioned vessels under their protection, and continue to give convoy until it may suit your arrangements to send other vessels.

We are the more inclined to urge this request, from the belief that the moment your vessels are out of sight, depredations will be recommenced with increased activity and ferocity, as the *numbers* of the pirates have not been in any manner diminished. Leaving the subsequent arrangements for our protection, entirely to you:

judgment and experience, we would add, that without any diminution of attachment to our native land, we feel a lively interest in the prosperity of Cuba, and the promotion and extension of its intercourse with the United States, which is highly beneficial to both; and to express our confidence, that through your judicious management and exertions, while the lawless, abandoned, and cruel desperadoes who infest the coast, meet with prompt and exemplary chastisement, the relation of amity and good will, which exists between the government and better *orders* of the people and the United States, will be cherished and strengthened.

Appreciating, in the warmest manner, the motives which prompted yourself and the gallant officers of your squadron to volunteer in this service, where no laurel blooms on the brow of danger to tempt the eager aspirant to pluck it—and where humanity and patriotism *could alone have* supplied the place of the more usual, but less noble excitement of desire of wealth and glory—and wishing you and them every possible success, and the most ample and acceptable reward.

We have the honour to be, sir, your most humble servants,

LATTING, ADAMS, & STEWART,
ATKINS & ALLEN,
SIMPSON, TRYON, & Co.

To Com. D. PORTER, *Commanding U. S. Naval forces in the West Indies and Gulf of Mexico.*

U. S. SHIP PEACOCK, *Matanzas, March 30th*, 1828.

GENTLEMEN: I have the honour to acknowledge the receipt of your representation in behalf of the American merchants of Matanzas, of the unprotected state of the commerce of this place, and asking for convoy for the same.

It is the source of great regret to me, that my means of affording convoy should be so circumscribed as they are, having now no vessels on the station but those intended for the pursuit and destruction of the pirates, and are illy adapted for the purposes of convoy. You may rest assured, however, that every effort shall be made, not only to afford convoy, but to effect the other objects of my visits to these seas, and it remains for us only to redouble our exertions to make up for part of the force which will be diverted from the object for which it was originally intended.

I shall, for the present, have two small schooners, the Wild Cat and the Beagle, to give convoy every Sunday morning, as far as the Double Headed Shot Keys; and when it shall be in my power to afford better protection, it shall be done.

For the flattering expression of your sentiments towards me, and the officers under my command, be pleased to accept my sincere thanks, and believe me to be, gentlemen, your very obedient humble servant,

(Signed) D. PORTER.

To Messrs LATTING, ADAMS, & STEWART; ATKINS & ALLEN; SIMPSON, TRYON, & Co. *Matanzas.*

MATANZAS, *Sept. 17th.* 1823.

To Lieut. Com't F. H. GREGORY, U. S. Schooner Grampus.

SIR: Understanding that you are about to leave this station, we, the undersigned, beg leave to assure [you] of the high sense we entertain of the means you have adopted to protect our trade, of which we have received repeated benefits: at the same time, we feel it our duty to express our thanks to you for your promptitude in furnishing convoy, and assisting single vessels out of that Bay, in furnishing boats to tow them out when otherwise dangerous delays would have occurred in their getting to sea.

We also deem it necessary that the Navy Department should be made more fully acquainted with the forces which are necessary to guard against any future attempt to establish piratical hordes in this vicinity. This has been fully exemplified by the measures which you have adopted, of remaining in port with the U. S. schooner Grampus, and keeping out small launches to scour the coast; the result of which has completed every expectation, and cannot fail of being highly gratifying to Commodore Porter. We have no doubt that the salubrity of this port is well known to the Navy Department, and confidently hope that your success will induce them to adopt the same as a standing measure, while the necessity of this protection continues.

We should feel highly gratified, could we entertain the hope of your returning amongst us, and avail of this opportunity to assure you of our personal esteem.

We remain, sir, your obedient servants,

LATTING, ADAMS & STEWART,
LAWRENCE & MITCHEL,
CHARLES P. BUTLER,
SIMPSON, TRYON, & Co.

(Copy.)

BANK OF THE UNITED STATES, *Nov. 20th*, 1823.

DEAR SIR: I have been for some time desirous of communicating with you, previous to Com. Porter's sailing, on the subject of employing some part of the West India squadron in protecting the trade between the U. S. and Mexico. There is now in that country, according to the best information I can procure, property to the amount of about one million and a half dollars, belonging to New York, Philadelphia and Baltimore, with a prospect of an increase of business. Besides incurring the risk of piracy, this property is subjected to great hazard in the ports of Mexico itself, during its convulsions, and this danger will be much increased, should there be an effort on the part of Spain, to reconquer the country, by sending an army there. In such an event, property, which on board of merchant ships, might be seized and confiscated, would be perfectly safe in a national vessel. It would therefore be highly useful to our commerce, and very acceptable to the merchants, if you could arrange the movements of the West India

squadron, in such a manner as always to keep one of the public vessels at Vera Cruz, or Alvarado, until she was relieved by another; thus enabling our countrymen to secure their property while it remained in Mexico, and afterwards obtain the benefit of convoy. The presence of such a vessel would, besides its direct protection of American property, occasion a considerable transmission to the United States, of specie, which now finds its way to Europe, by other channels. There is another matter connected with it, which deserves reflection. The exports of Mexico are almost exclusively specie and cochineal. Now cochineal is nearly as valuable, in proportion to its bulk, as specie: it occupies comparatively very little space, and is as good, if not a better remittance, owing to its high price in Europe. If our ships were allowed to receive this article as well as specie, it would be of great importance; and the indulgence might, perhaps, be fairly allowed, under the peculiar circumstances of our trade with Mexico.

This subject has excited considerable interest, and there is a disposition to present a memorial to the Government; but on your account, I should prefer, in case you approve the measure, that it came spontaneously from yourself.

The interest which the Bank of the United States has, in common with the country at large, in giving every facility to the introduction of a sound currency, will explain, and I trust excuse, the freedom with which I venture to submit these remarks for your consideration. I have the honour to be, very respectfully, yours,

N. BIDDLE, *President.*

Hon. SAM'L L. SOUTHARD, *Secretary of the Navy, Washington.*

I certify the above to be a true copy of the original on file in the Navy Department. CHAS. HAY, *Chief Clerk.*

NAVY DEPARTMENT, *May 11th*, 1825.

NEW YORK, *August 13th*, 1824.

MY DEAR SIR: Your esteemed favour of the 10th reached me this morning, and I shall ascertain to day if the Spark will be in time for my purposes. I can assure you that my regret at the publication of the Matanzas petition was quite equal to your own; but my *indignation* was excited by the official or ostensibly official communication which accompanied it. The act of the clerk in the Counting, without a shadow of authority, and contrary to my orders; I immediately notified the editors of the paper of that fact; and seeing reference again made to it, in a wretched compound of folly and falsehood, published in the Democratic press, I yesterday addressed a few lines to the editors of the American, which you will see in that paper of to-day.—'Tis wonderful that editors of papers should become dupes of such miserable retailers of lies as the writer of "the spy"—"pero no hay remedio."

I shall be infinitely glad to see you here, I am at 16, Broadway, but will not fail to look out for you, and am, with the utmost sincerity, dear sir, your most obedient servant, F. ADAMS.

MATANZAS, *Dec.* 18*th*, 1824.

MY DEAR SIR: I learned with much satisfaction from your favour of the 15th inst. your arrival in our neighbourhood, and shall anticipate the pleasure of a visit from you here at as early a period as your arrangements will permit. On the subject of piracies, as much is known, and much more said, in the United States than here. In the early part of summer, the John, of Newport, and Castor, of Portland, were captured near, and bound here—the former arrived here with some trifling loss of property, and the [latter] at Havana. No lives were lost in either case. The Mercator was said to be captured between this and Havana, from New-York, bound to that place. No subsequent tidings have been received of her, and a passenger, a Spaniard, who escaped, appears to be the authority on which the capture was reported. The transaction at *Bahia Honda* comes next in order of date, and beyond the re-capture made by the Icavas, Capt. Graham. I have seen no evidence whatever of their having been other captures recently made there. I expect soon to see Capt. Graham, with whom I am acquainted, and shall procure from him correct information on the subject. The last instance of piracy of which we have any accounts, was the capture of the Laura Ann, of New-York, near Cannise, a few leagues to leeward of this port, surpassing in atrocity any thing I have known before. The Hornet had been some days in Havana; the Porpoise was there also, but just arrived from Africa; the Ferret had left there but a day or two before, when this vessel was taken, about the 21st Oct. Capt. Skinner arrived here about the 23d, and without particular duty to act on, sent secretly an expedition of boats to Seguapa; on their return they encountered and captured the piratical schooner Ann, the clothes of Capt. Shaw, and much other plunder, which were brought in here. After Capt. S. had sailed, a sailor, in a wretched condition was brought to me, who detailed the capture of the Laura Ann, the murder of the captain and crew, himself excepted, and his escape. The Ferret arriving next day, he was put on board, and Escondido, Cannise, and the adjacent coast searched by Capt. Bell. The long boat, and some half burnt spars and sails were found, and a man, recognized by the sailor, who was seized, brought here, and delivered to the authorities, where the business seems to have ended. The unceasing vigilance which has since been exerted by the different vessels, with their boats, along the whole coast, seems to render an act of piracy almost an impossibility at present. Some vessel of war is always here, and convoy given whenever desired, and boats almost always outside, above and below us. I am aware that censure has been cast on you, on account of recent depredations of the pirates, but those who know the advan-

tages they have in changing their position, and assailing vessels passing down the coast, in despite of the vicinity of men of war, the facts I have stated with regard to the Laura Ann, prove that nothing short of a string of vessels round the Island, in hail of each other, can prevent the plundering of *altogether unarmed* vessels. A very small armament would suffice for defence against small boats, and our naval force is sufficient protection against those of larger class. The Laura Ann had *no arms*—shame to her owners. The licensed pirates, or vessels *armed, manned, and commanded* by citizens of the United States, such as the Eagle, Polly Hampton, Columbian, &c. are only less annoying to an honest commerce than the murderers of Shaw.

We are now near two weeks without an arrival from the middle states, and have consequently few or no papers. I send all I can lay my hands on. It appears quite probable that the Hero of New-Orleans will be made President of the United States *by the people;* to us who have not been on the spot to observe any of the operations of electioneering—this sudden reeving round of the breeze of popular favour seems incomprehensible.

I shall attend to your little commission, and am, my dear sir, with the highest regard and esteem, your most obedient servant,

F. ADAMS.

SEA GULL, *Allenton, June 7th,* 1823.

SIR: In consequence of the necessity for looking out for pirates on the south side, and the consequent dispersion of my forces, I shall not at present be able to give convoy so regular as I have done, but still I shall give it often and regular enough to protect our commerce. When some of the large vessels arrive that I daily expect, convoy shall be established as usual.

I give this information to prevent any disappointment on the part of the merchants and others, and I beg you to assure them their interests shall not be neglected.

With great respect, your obedient servant,

(Signed,) D. PORTER.

F. ADAMS, Esq.

U. S. SHIP JOHN ADAMS, *Thompson's Island, Dec. 15th,* 1824.

MY DEAR SIR: I arrived here a few days since, and should have been over to see you, but for the daily expectation of two vessels from the United States, which will require, on their arrival, my immediate attention, after which I shall be under the necessity of going to Pensacola and Tampa Bay. I shall be with you about the middle of next month, and hope to find you in the enjoyment of health.

As there have been various and alarming accounts of piracies committed since last June, I will thank you to give me a statement of the captures known to have been made. It has been stated that

the British discovered near Bahia Honda, the wrecks of twelve vessels *lately* destroyed—Do you know any thing of that affair?—Are not those the wrecks of twelve sail of English vessels which were cut off a convoy about six or eight months before I first came to suppress piracy?

It is very desirable to get correct information on this subject, as the account is generally believed, and has brought great censure on me and others.

Please to send me papers of any date since I left the United States, for we are entirely out of news for upwards of six weeks.

With sincere respect, your obedient servant,

(Signed,) D. PORTER.

F. ADAMS, *Esq. Matanzas.*

TRINIDAD DE CUBA, *January 26th*, 1823.

DAVID PORTER, Esq.

Commodore of the American Squadron, on the Coast of Cuba, &c.

SIR: Feeling it a duty I owe to my countrymen engaged in trade to this side of the Island, to address you on the subject of their protection, I take that liberty—knowing that all the aid in your power, you will cheerfully grant. This port has, for some time past, been infested with a small force of pirates, who have captured a number of vessels; and on the 20th instant, the brig Mechanic of New York, bound in. They now hold the Captain and two passengers as hostages, for the ransom of that vessel, in the sum of 3000 dollars; and have declared, that unless the money is immediately sent to them, the hostages shall be put to death. Preparation is making to forward the amount, as there are no other means to rescue these unfortunate men. Their force will no doubt increase in proportion to their success, and the facility with which they have gained the amount of the ransom for the brig Mechanic, will induce a number of ill disposed idlers to join them. Several valuable vessels are daily expected from Europe, and if no force is used to extirpate them, the loss of property will be considerable.

I have the honour to be, sir, your most obedient servant,

ROBERT R. STEWART.

P. S. The hostages have just arrived, and say that the pirates have received the 3000 dollars.

To the Commander of the Naval forces of the United States, stationed at or in the vicinity of Havana, Island of Cuba.

The undersigned, citizens of the United States, resident merchants, and shipmasters, in Trinidad de Cuba, respectfully represent, that this port is at present infested by a horde of pirates, who rendezvous among the numerous keys, in the immediate vicinity. That the brig Mechanic, of New York, was captured on the 20th instant, by twelve of these wretches, in an open boat, within two leagues of the harbour;—that, after plundering the vessel, and robbing the crew of their bedding and clothing, they abandoned the

brig, detained the Captain, Second Mate, and Cooper, demanding a ransom of 3000 dollars—threatening them with death, unless the ransom should be sent immediately after the arrival of the vessel in port.—That a brig and schooner are now in the offing, both of which must fall a prey to the marauders—That there are no means in *our power*, of affording them any assistance—That there are at present in port, ten American vessels, and nearly that number daily expected, with valuable cargoes. We therefore, beg leave to solicit your attention, to the exposed situation of the American commerce, in this quarter, and pray that your aid and assistance may be extended for its protection. We have no doubt that the appearance of a single armed vessel, would suppress these depredations.

TRINIDAD DE CUBA, 25*th January*, 1823.

BENJ. EDDY, of brig Jacob.
MATHEW RICE, Ship Jane.
FOLDEN DEARTH, Brig John Smith, Bristol, R. I.
JAMES TATE, Jun. Schr. Louisa.
WM. C. TILDEN, Schr. Lucy, Baltimore.
THOMAS WOODBURY, Schr. Florida.
JACOB WING, Brig Pilot.
SAML. SPARLING, Schr. Cashier.
TATE & GRONING,
LOM'S PRICE.
BABAD & CORNEILLE.

U. S. GALLIOT SEA GULL, *Matanzas, April 16th*, 1823.

GENTLEMEN: I received your application for convoy yesterday, and had previously sent two schooners and two barges to the vicinity of Trinidada.

The whole number of men at present under my command, do not amount to the number on board one of our large frigates; and with force I have endeavoured to give convoy to merchant vessels from this place and Havana, and at the same time pursue the pirates;—consequently, I have not been able to give a convoy to those on the south side of the Island.

The weakness of my force arises from the circumstance of some of our larger vessels of war, which I expected to have found here, having left these seas; but why they have done so, is unknown to me. Hereafter, I hope to be possessed of better means, and to have it in my power to gratify your wishes at an early period.

I have the honour to be, gentlemen, your obedient servant,

(Signed) D. PORTER,

Commanding U. S. Naval forces in the West Indies and Gulf of Mexico.

To the American Merchants and Shipmasters at Trinidad de Cuba.

(*Extract.*)

U. S. SHIP JOHN ADAMS, *Thompson's Island, December 15th*, 1824.

As there have been various reports of captures by pirates, some no doubt greatly exaggerated, will you give me as nearly as you

can, an account of all captures *known positively* to have been made, both for my own satisfaction, and the satisfaction of the government?

As these accounts have brought censure on me and others concerned in the suppression of piracy—are not the twelve wrecks of vessels discovered by the British to leeward of Bahia Honda, the same that were cut out of an English convoy about six or eight months before I *first* came out to take command?

It is very desirable that correct information be had on this subject. With sincere esteem, your obedient servant,

(Signed) D. PORTER.

VINCENT GRAY, Esq. *Havana.*

U. S. SHIP JOHN ADAMS, *Thompson's Island, January 15th*, 1825.

SIR: I have received your letter of this date, applying for convoy for the schooner Leo, of which you are Supercargo, to the port of Alvarado; and I regret to inform you that it is not in my power to give the convoy required.

We have now in the neighbourhood of Alvarado, for the protection of our commerce in the Gulf of Mexico, two schooners—and the present scattered state of the squadron under my command, prevents my sending any more to that quarter.

Very respectfully, your obedient servant,

(Signed) D. PORTER.

MR. C. WEINBRENNER, *Thompson's Island.*

Miscellaneous Orders to, and Correspondence between, different Officers.

U. S. STEAM GALLIOT SEA GULL, *May 4th*, 1824.

SIR: I have sent home the ship Decoy for stores, and the schooner Gray Hound for repairs and to be coppered.

The enclosed list will inform you of our wants, which I will thank you to cause to be supplied with all possible despatch, in order that the ship may return to the station where the stores are much required. I will thank you, also, to cause the Grey Hound to be furnished with two chain cables, and to despatch her as soon as possible.

Very respectfully, your obedient servant,

(Signed) D. PORTER.

Captain S. EVANS, *New York.*

U. S. SHIP JOHN ADAMS, *Thompson's Island, Jan'y 28th*, 1825.

SIR: Having received orders from the Hon. Secretary of Navy to repair to Washington, and on my leaving the station to deliver the command to you, with all such papers, instructions, and information as may be useful to enable you in the most effectual manner to accomplish all the objects for which the vessels under my command were placed here, I have now the honour to send you the Gene-

ral order book of the station, which details the general duties of officers.

Those orders of a more particular character are now in the hands of the Clerks, and copies will be furnished as soon as they can be made out, with such other information as may be useful to you.

During my continuance here, I shall be happy to inform you, from time to time, on all subjects connected with the duties to be performed, and of those which are now in progress.

I have the honour to be, very respectfully, your obedient,

D. PORTER.

Capt. L. WARRINGTON, *U. S. Navy.*

U. S. SHIP JOHN ADAMS, *Thompson's Island, Jan'y 29th*, 1825.

SIR: The only orders from the Navy Department which remain unexecuted are those, copies of which I now enclose you. You will find in possession of the commanding officer of the Island, orders and instructions on every point of duty important to be informed of. It therefore only remains for me to give a brief sketch of the disposition of the squadron under my command at this time. To wit:

Captain Dallas, at Thompson's Island, corvette John Adams, bearing my pendant, and destined for the United States; sloop of war Hornet, Kennedy, ordered to cruise on the south side of Cuba, for three months, from the 22d Dec. 1824, between Cape Cruz and Cape Antonio; brig Spark, Newton, at N. York, repairing; schooner Shark, Gallagher, under orders to proceed to St. Thomas, and to return to this place; schooner Grampus, Sloat, and schooner Beagle, Platt, ordered to cruise about St. Thomas, Porto Rico, and occasionally to run over to the main; the Beagle, ordered to the U. S; schooner Porpoise, Skinner, ordered to the Gulf of Mexico, and after cruising six weeks there, to proceed to Havana, and thence to the United States, should she have on board $100,000 to be landed there, otherwise she is to repair to this place; her orders are dated —— Sea Gull Steam Galliot, Mc'Keever; schooner Terrier, Payne; schooner Ferret, Bell; barge Musquito, at Matanzas for the protection of our commerce in that neighbourhood, and in the Old Straits of Bahama; schooner Weazel, Boarman, on her way to the United States, specie, considerably out of repair, and will probably be sold; schooner Fox, Cook, expected daily with a party for the survey of Pensacola and Tampa Bay; barges Diabolita and Gallinipper, on a cruise among the Colorados, expected in a few days; store ship Decoy, Mix, expected daily from New York with stores; three barges under the shed, neither of them sufficiently strong to cross the Gulf.

Should any other information suggest itself to me as necessary for you, or should you think of any thing necessary for me to inform you of, it will afford me pleasure to furnish it.

With great respect, your obedient,

(Signed,) D. PORTER.

Captain L. WARRINGTON.

Extract from letter.

BALTIMORE, *December* 21, 1822.

"Steam boat and small vessels, will each carry six weeks provisions and stores, and that the store ship will carry a supply for six months, which quantities you will please to provide."

(Signed,) D. PORTER.

Directed to F. A. THORNTON, Esq. *Purser.*

WASHINGTON, 19*th July*, 1824.

MY DEAR SIR: On calling at the navy office to day, I received the enclosed copy of a petition from Matanzas; by this time the Terrier must have completed her service on the coast of Florida, and is present in the absence of the Ferret, to afford the protection asked for; but in the event of its being otherwise, the Wild Cat will arrive in good season.

Lieut. Zantzinger arrived to day, he is desirous of relinquishing command; I will indulge him with leave of absence, and direct Lieut. Boarman to supercede him and proceed to sea.

I learn from Lieut. Zantzinger, that the Ferret had gone to New Providence, and of course may be expected home.

The New-York papers report the arrival of the Grampus, but give no particular details of her cruise since she left us; a letter received by the Secretary from Lieut. Sloat, refers to you for particulars.

Lieut. Newton states to the Department that the Spark requires coppering, and that the gun slides ought to be surveyed; as the Secretary appears to be particularly anxious to keep the vessels at sea, I should hope that the contemplated repairs are not of such magnitude, but that they may be deferred until the fall, and as she is in quarantine, an additional delay will attend effecting her outfits. If her condition will authorize it, would it not be well to order her to provision and proceed from quarantine on a shorter cruise than may originally have been contemplated to you.

With respect, I am your obedient servant.

W. B. FINCH.

Com're D. PORTER, *Commanding &c. &c.*

WASHINGTON, *July* 20*th*, 1824.

MY DEAR SIR: I transmit to you advices from the Island, received to-day by Lieut. Oellers, who left the Ferret off Indian Head. She will get up to the yard, I expect, in the course of the afternoon, and I will put in train any repairs she may want.

I am pleased with the general tenor of the reports, and have apprised the Secretary of it; and, for his more ready information, will condense the subject into one view.

A letter has been received to-day from Lieut. Gallagher, advising the Secretary that the Shark is moved to the North River, and, of course, ready for sea. On reference to Mr. Barron, I learn that no sailing orders appear to have been prepared for her.

The Decoy is reported ready, waiting only for a Surgeon. Doctor Ticknor has been ordered; and there is no doubt that he has, by this time, joined the ship; in the event of his not having done so, I shall order Doctor Morgan, whom you will see has reported for duty.

In anticipation that you will give sailing orders to the Spark, Shark, and Grampus, I shall write by this day's mail to their respective commanders, so that they may be ready the more promptly to obey them; or, if it pleases you, I will renew the orders under which they have heretofore been acting. I make this suggestion, as it is possible you may have special views for one or all of them.

Since writing the preceding paragraph, I have received Lieut. Sloat's report, now transmitted. The three bodies found about the Tortugas, are those of three marines, who deserted from the island.

A duplicate of Lieut. Gallagher's report of the Shark, is transmitted.

I have been constrained to trouble you with bulky communications, as the subjects and views of the writers are various, and such as I cannot, in all respects, act upon. If your health will not admit of giving replies in detail, a mere memorandum from you will enable me to do it. During your absence, you will necessarily be more at ease, having all transactions connected with your command exhibited to your own inspection, in the language of those having in possession, and acting under orders, immediately emanating from yourself.

With respect, I am your obedient servant, W. B. FINCH.

Com. D. PORTER, *Comd'g, &c. &c. &c.*

P. S. The report from McIntosh, of the piracy and murder off Escondido, is really alarming. As some doubt may exist in reference to it, I have not thought it necessary to state it to the Secretary.

(Copy.) WASHINGTON, *20th July*, 1824.

SIR: I beg leave, for your information, to state that, by the arrival at this place, yesterday, of the schooner Ferret, from Thompson's Island, via Nassau, N. P. advices are received to the 2d inst. which describe the health of that place to be unusually good: the sick report accompanies this. All the improvements directed by the Commander in Chief, as regards buildings for public purposes, and individual comfort, are progressing in the order contemplated, and their completion, to the extent intended, may very early be realized. Plants, of various kinds, have been introduced from Cuba, and are in a thriving condition. The canals have been deepened, so as to admit the sea-water into the Lagoons, near the seat of population: wild grass, in that neighbourhood, has been destroyed, and the beach cleansed of the drift sea-weed, which lodges along it, subject to decomposition; so that all due care seems to be taken

to guard against the recurrence of the malady, similar to that which visited it last year. The season has been dry, the winds refreshing and variable, and the range of the thermometer from 95° to 98°.

Acting Lieut. Farragut, commanding the Ferret, reports that, while at Nassau, about the 10th inst. one of his crew, of the name of James Fredenburg, stated himself to be a deserter from H. B. Majesty's ship Pandora; and that, in consequence, he gave him over to Captain Du Maigue, commanding H. B. Majesty's ship Kangaroo. The grounds on which Lieut. Farragut acted, are, that it was repugnant to our regulations to have a foreigner in our service; and, as a requital for a similar act of courtesy, on the part of Capt. Du Maigue, who had, not long before, returned to the W. Cat, Lt. Legare, a deserter from one of the W. India squadron; as Lieut. Farragut has been governed in this transaction by a regard to reciprocity, and not constrained thereto by any act of the British officer, I indulge the expectation, that you will approve of his proceedings.

Lieut. Comdt. McIntosh, under date of the 2d inst. gives a detailed report of his cruise in the Terrier, along the coast of East Florida, from Cape Sable to Carlos Harbour, in search of a reported smuggling or piratical establishment, not known to us before precisely, but which he has discovered to be situated on a Key called Punta Rosa, bearing N. by W. 1-2 W. from the S. E. end of Sanybe Island. The number of inhabitants, Spaniards, are not ascertained with precision, but cannot be many, as there are but five thatched houses on the Key, which is under the culture of corn, pompions, and melons. They are occupied in fishing principally, and have licenses from Cuba to trade therewith. They rely upon the protection of our troops at Tampa Bay, regard themselves as belonging to the territory, and feel secure in their avocation. Lest, however, they might become lawless, Lieut. McIntosh removed to Thompson's Island two small carriage guns, which were alleged to have been kept to intimidate the Indians, who had committed some outrages on them. The place is now so particularly identified, that occasional visits from the Revenue Cutter will effectually guard against the illicit introduction of goods, &c. into Florida.

Lieut. Sloat, commanding the Grampus, reports, under date of the 17th inst. from N. York, that, between the dates of the 4th and 27th, that he had visited the ports of Campeachy, Alvarado, and [Tampico,] in accordance with orders; that rumours prevailed of a piratical vessel being near Campeachy, for which he made diligent search fruitlessly. The schooner Jackall was at Tampico, about the 20th, and the John Adams near Vera Cruz on the 21st; so that you will perceive all the protection is afforded in the Bay of Mexico, contemplated in your letter of the 20th inst.

Lieut. McIntosh, who superceded Lieut. Oellers in command at Thompson's Island, writes, under date of the 4th of July, that an American brig was stated to have been captured by a piratical boat.

near Matanzas, and carried into port Escondido; that he had an accurate description of the boat, and had despatched a barge, together with the Terrier, to effect her rescue. I am encouraged to hope that his efforts may meet with success.

In addition to the protection already afforded to the commerce of Matanzas, you may calculate on the services of the Wild Cat, which sailed on Saturday last; so that this demand on the Department is answered.

The force at present in the Bay of Mexico, it is hoped, will succeed in taking or driving away the marauders, stated by the paper to infest it; the almost simultaneous return of several vessels of the W. I. squadron to the U. States, it is desirable to guard against; and their cruises have been arranged with the view to that object, and the keeping of a sufficient force at all times about Cuba, and in the Bay of Mexico.

On the 15th of July, the schooner Fox had sailed from Tampico for New Orleans, so that, at every practicable point, some of our vessels are seen.

I cannot but congratulate you on the general good health enjoyed by the respective crews; some symptoms of fever have manifested themselves, and some deaths have occurred: this must be expected. Exemption from disease cannot be calculated upon, though I am convinced, by reports from the relative officers, that every regard is paid to health, cleanliness and comfort.

With respect, I have the honour to be,

(Signed) W. B. FINCH, *Captain of the Squadron.*

Dear Sir: Captain Finch desired me to enclose to you the above copy of a letter, which was handed in to the Secretary of the Navy this morning.

It was Captain Finch's intention to have placed it within the other enclosures, which were directed and sent to you this day, but the want of time prevented him from doing so.

I had the pleasure of seeing Mrs. P. to day, who informed me that herself, and the other members of your family, were all well.

With the utmost respect, I am, Sir, your obedient servant,

T. BARRON.

Com. D. Porter.

Washington, *9th August*, 1824.

Sir: I have the honour to report the present state of the vessels of your squadron now in part, to be as follows:

The John Adams, at Philadelphia, requires that her rudder should be unshipped for examination, about the pintles and gudgeons, and may need other overhauling. The period of service of fifty of her crew has expired, who have applied for their discharge.

The Grampus, at New York, is in readiness for sea.

The Spark, in quarantine at New York, will want repairs and officers.

The Beagle, also in quarantine at New York, will want a commander, and some overhauling.

The Sea Gull is ready for service.

The Ferret, ready for service, requires a commander and some men, the latter to be furnished from the Jackall.

The Jackall, at Washington, requiring considerable repairs and outfits; the Department has decided to sell her.

Orders have been issued by the Department to Lieuts. Mix and Platt, to report for service, and also to several midshipmen, to supply vacancies.

The Hornet, Decoy, Shark, Wild Cat and Weazel, have recently sailed on their respective cruizes.

Lieuts. Dale and Bell are applicants for commands.

With respect, I have the honour to be, your obedient servant,

W. B. FINCH, *Capt. of Squadron.*

Com. D. PORTER, *Commander in Chief, &c. &c.*

WASHINGTON, *16th September, 1824.*

MY DEAR SIR: By letters received from New York, within a day or two, I find that nothing is yet doing with the Spark and Beagle, as they are not expected to be released from Quarantine and admitted to the Navy Yard, for some time. Lieut. Platt has before this, assumed command of the latter vessel. I have addressed a written request to the Department, that the necessary instructions may be given to the Commandant of the Yard, for their re-equipment, as soon as the present restrictions are rescinded.

Orders were yesterday issued for the shipping of a crew for the Constellation, and I suggested to Commodore Rodgers and Mr. Hay, the propriety of your being officially informed that she is intended for your command. Neither of them, however, can do it, tho' the Commodore says such is the fact, and that I might so assure you; however, on this assurance, I am aware that you will feel a delicacy in expressing to the officer commanding at New York, any wishes as to the style and character of her equipment. In the course of a week or ten days, the Secretary will be here, when I suppose you will by him be advised of the appointment of the Constellation as the flag of your squadron. As the crew will be rapidly enlisted, probably it would be well that Mr. Thornton should be early ordered, that he may have the more time to arrange his books, &c. and be present at New York, as the recruits may arrive. I have already received four applications for acting Lieutenants to join the Frigate.

McKeever's vessel is quite ready, with the exception of a medical officer. Hay says that I shall have one for her. McKeever some time ago expressed to me a sense of favour by being ordered to the command of the Gull, but at the same time signified that it would be preferable to him to be in some situation nearer your person; for instance, flag Lieutenant, or any other designation you

might give to him. He is an intelligent, efficient, and genteel officer, and I think you might find him, in a variety of ways, useful to you, if immediately under your eye and within reach.

Accounts from Norfolk state, that Capt. Sinclair's life is despaired of, in consequence of another paralitic stroke, and poor Farragutt's wife in a critical state from a violent bilious attack.

I shall wish to leave the city for some days about the 22d inst. There is but little business claiming my attention, and you may arrive by that time.

Commodore Rodgers seems still disposed to get rid of the Jackall. I explained the cause of her being yet at this Yard.

Your friends here are quite anxious about your health; I am daily asked if you get better, and am mortified in having to say that I have not heard from you since you represented your case as a source of considerable uneasiness to yourself.

The city is excessively dull, but very healthy. I hope that your family are generally well: please offer my respects.

With great regard, your obliged servant,

W. B. FINCH.

P. S. I should like to relieve Midshipmen Smith and Browning of the Sea Gull, and attach them to the Adams, for greater improvement—their places to be supplied by two strangers, who have reported; but Dallas says he does not want more than he already has. I suppose Rapalje will go out with him as acting Surgeon. I wish also to detach young Brent, and with your permission, to put him in the frigate. The only objection to him is, a want of self confidence; as he grows older, that will follow. I'll however write to Dallas.

U. S. Brig Porpoise, *off Havana, 7th Dec.* 1823.

Sir: You are hereby directed to sail from Havana on Sunday morning next, the 8th inst. with such vessels as may require your convoy, and afford them protection as far as the Double Headed Shot Keys; you will then proceed to New York with the specie you may have on board belonging to American merchants, and report your arrival there to the Hon. Secretary of the Navy.

I am sir, respectfully, your obedient servant,

JAMES RAMAGE.

Lieut. Comd't John P. Zantzinger, *U. S. Schooner Weazel.*

Allenton, Thompson's Island, *20th February,* 1824.

Sir: You will proceed with the U. S. schooner Fox under your command, to cruize from the Colorados to Havana, and to such other places on the north side of Cuba, as may be deemed necessary, from the information you may receive, to afford the best protection to commerce, and suppress piracy.

You will be governed by the "general instructions" from Commodore Porter, and when supplies of any kind are required, you will return here for them.

Respectfully, your obedient servant, J. WILKINSON.

Lieut. Comd't John T. Ritchie, *U. S. Schooner Fox.*

U. S. Brig Spark, *Sacrificio, April 30th*, 1824.

Sir: You will proceed, without delay, with the U. S. schooner Weazel, to Tampico, and there give protection to our commerce; should there be any specie destined for the U. States, or the Havana, the property of American citizens, you will receive on board such sums as may be presented. The premium for specie to Havana, you will take as your guide the British rule, which does not exceed one & half per cent; treasures for the U. States, commands two per cent; as soon as you have received on board such sums as may be offered, you will as speedily as possible rejoin me at this place.

I am, with great respect and esteem, yours &c.

JOHN T. NEWTON.

Capt. John P. Zantzinger, *U. S. Navy.*

U. S. Barge Gnat, *Matanzas, Sept. 4th*, 1823.

Sir: I have the honour to inform you that, in obedience to your orders of the 19th July, I left the Grampus, in company with the cutter under Mr. Sanderson. In the prosecution of those orders, I have examined the different keys, bays, inlets, rivers, and harbours of Cuba, both inside and outside, the main keys, as far to windward as Guanaha, and with regret am compelled to state that I have been unsuccessful in the capture of any pirates. On the 6th of August, I was joined by the Midge, Lt. Platt, at Sagua la Grande, and the next day was compelled to leave that officer, and three seamen, with the cutter, at Cayo Christo, in consequence of sickness; and to transfer Mr Sanderson to the Midge. On the 16th we got through Canal Canoe, having been 6 days beating up from St. Juan de los Remedios, destitute of provisions, and without a pilot. On getting into Guanaha bay, I discovered a few small huts on Cayo Romano, and beat up as near to them as the channel would admit of, and came to. I directed Midshipman Hunter to take an interpreter with him, and proceed to the houses in quest of provisions and a pilot. On landing, he was met by two men whom he addressed, telling them his business, and that he was an American. Thinking that they were fishermen, and that they were afraid of him in consequence of his being armed, he laid his arms on the beach, and directed the interpreter to do so also. Notwithstanding this, they continued to retreat towards the houses, and Mr. Hunter to follow them, until on arriving near the houses, a party of ten or twelve men rushed upon them, and attempted to seize them. Mr. Hunter was captured, but the interpreter succeeded in effecting his escape to the boats amid a volley of musketry, with no other injury than a slight wound. Immediately on receiving this intelligence, I landed with a portion of the crews of both boats, and proceeded to the houses, but the pirates had fled, with the exception of three or four, at whom some of our men got a few shots, but with no other effect, than compelling one of them to drop his load, consisting of liquors, preserved fruits &c. It being late in the evening when we arrived at the huts, and our

men excessively fatigued from their march, I determined to remain there that night, and proceed in pursuit of them the next morning. About midnight, Mr. Hunter returned. He informed me that the houses we then occupied were a part of an extensive slaughtering establishment. That immediately on his capture, the pirates took all the horses belonging to it, on which they mounted with their provisions, &c. and proceeded about twelve miles in the interior, leaving three or four of their gang well mounted at the huts to watch our motions. That he had been released on condition of his interceding with me to spare their boats; and that he thought he could pilot us to the place where he left them. At 2 A. M. on the 17th I proceeded with Mr. H. as guide, and about twenty officers and men in pursuit of them. After a painful march, we arrived at the spot where they had encamped the night previous; but no traces of them remained. From the open nature of the country, and the advantage they possessed of being mounted, I was convinced that a further pursuit was hopeless, and therefore determined to abandon that mode, and attempt their capture by stratagem. I accodingly seized all the boats I could find on the Island, and invested them in such a manner that their escape was impossible, unless by travelling a distance of eighty miles to the north end of the Island. I attempted every stratagem that I could devise for their capture or destruction, and in one case with such success, that but for a flash of lightning which discovered to them some of our men, their capture was inevitable. We remained on the Island six days, when our provisions being entirely exhausted, and many of our men sick from the constant exposure and fatigue they had undergone, I was compelled to leave them. I destroyed their boats, three in number, one large and two small ones, and a quantity of arms and ammunition which they had left behind them in the hurry of their retreat. I was compelled to do this from the impossibility of making any progress in our barges with the boats in tow.

On leaving there, I proceeded to Guanaha, where I obtained a supply of provisions. I learned that the villians we had left were part of a gang that was forming under the notorious pirate Antonio El Majorcan; that they were twenty in number, and had collected in the vicinity of that place for the purpose of seizing a Spanish felucca then in port, and nearly ready for sea, which they intended to fit out as a cruizer. I remained in Guanaha three days, in consequence of a heavy S. E. gale which prevented my proceeding any further to windward, and which, added to a scarcity of provisions, finally compelled me to bear up for this port. In running down the coast, I examined Cayos Verd and Confitos, and all the intermediate ports, &c. between them and this place. By discharging the ballast, water, provisions &c. from our boats, we were enabled to ascend to the very source of the Rio Palmas. I am satisfied from the shoalness of the water over the bar (varying from six to eighteen inches in depth) the many obstructions in the river, and the marshy nature of its banks, that the prevalent opinion of its being a piratical depot

is not founded on fact. On the 3rd inst. I arrived here, without having met with any disaster, and the officers and crews of all the boats in good health. During the whole of this long and arduous cruise, I am happy to state that I received every support from the officers and men attached to the expedition. Their fortitude, and even cheerfulness under the numerous privations and sufferings incident to a cruise in open boats, at this season of the year, was almost without a parallel; and justly entitles them to the gratitude of their country.

I have the honour to be, sir, very respectfully, your obt. serv't,

THOMAS W. FREELONS, *Lt. U. S. Navy.*

Lieut. Comd't FRANCIS H. GREGORY, *U. S. Schooner Grampus, Matanzas.*

MINUTES

OF THE

PROCEEDINGS

OF A

GENERAL COURT MARTIAL,

IN THE CASE OF

CAPTAIN DAVID PORTER.

MINUTES of the proceedings of a General Court Martial, convened at the Navy Yard, in the City of Washington, in the District of Columbia, on Thursday, the seventh day of July, in the year of our Lord, one thousand eight hundred and twenty-five; by virtue of a precept from the honourable the Secretary of the Navy, dated the twenty-third day of June, in the same year, hereunto annexed, and marked (A.)

PRESENT,

Captain JAMES BARRON, *President.*

Members.

Captains *Thomas Tingey*, *James Biddle*, *Charles G. Ridgeley*, *Robert T. Spence*, *John Downes*, *John D. Henley*,

Capt's. *Jesse D. Elliott*, *James Renshaw*, *Thomas Brown*, *Chs. C. B. Thompson*, *Alex. S. Wadsworth*, And *George W. Rodgers.*

And RICHARD S. COXE, *Judge Advocate.*

Captain David Porter appeared, to answer the charges that had been exhibited against him. He was asked by the Judge Advocate, whether he had any objections to make to any of the members of the Court.

The accused, by leave of the Court, presented the paper marked (B), which he read—and which is annexed to the record; whereupon, the Court was cleared, and after mature consideration, one of the members proposed the following question:

Shall the question, whether the Judge Advocate be subject to challenge, be referred to the Attorney General, through the Secretary of the Navy? Which was determined in the negative. The question was then, on motion, proposed to the Court.

Is the Judge Advocate liable to be challenged by the accused?

One of the members of the Court, said, that he did not feel himself competent to decide the question, without legal advice. At his request, the Judge Advocate was called upon by the Court, for his opinion, which he gave as follows:

"Commodore Porter having taken an exception to my acting as Judge Advocate of the Court, and the Court having intimated a wish that I should give my opinion upon the question, whether a challenge or exception may be taken by the accused to the Judge Advocate? I am of opinion, that the appointment of the Judge Advocate, rests with the Government; and that he holds his office by the same authority which appoints the Court—and that neither has the accused a right to make any exception before the Court, nor has the Court a right to decide upon any exception to the Judge Advocate. That no precedent of such challenge having ever been made, has been, or it is believed can be produced."

After reading this opinion, the question was put, and decided in the negative; whereupon, the Court was opened, and the foregoing proceedings announced.

The oath prescribed by the law in such case, was then administered by the Judge Advocate to the President and Members of the Court. And the oath prescribed to be taken by the Judge Advocate, was administered to him by the President.

The charges and specifications were read by the Judge Advocate, annexed to the record, and marked (C), and Captain Porter was asked whether he was guilty or not guilty. Captain Porter requested permission to postpone, 'till to-morrow morning, pleading to the same, and at the same time requested permission of the Court to have counsel present in Court to aid him—to have a clerk to take minutes of the evidence, and also that he might be furnished with a copy of the charges and specifications as read by the Judge Advocate. To all these propositions the Court acceded; it being understood that the counsel of Captain Porter will be subject to the same restrictions as are usually adopted in Courts Martials. Captain Porter mentioned Walter Jones, Esquire, as the counsel whose presence he desired.

The Court adjourned 'till 10 o'clock, to-morrow morning.

FRIDAY, JULY 8TH.

The Court met pursuant to the adjournment of yesterday: present, all the members of the Court, and the Judge Advocate.

A letter was received from the Secretary of the Navy, which was read, annexed to the record, and marked (D), whereupon the Court adjourned, to meet at the Marine Barracks, in the City of Washington.

The Court being opened pursuant to the adjournment: present as before, and Captain Porter, the minutes of the proceedings of yesterday were read.

Captain Porter was then called upon to plead to the charges;—he requested, by way of plea, that he might be permitted to read by his counsel, and submit to the Court, a paper containing remarks upon the charges. This being done, the paper, with the letter addressed to the accused by the Secretary of the Navy, therein referred to, covering a copy of the charges, and the copy of the charges furnished to him, were annexed to the record, and marked E. F. and G.

The Judge Advocate stated to the Court that, as the exception therein pointed out by Commodore Porter had been waived by the accused, he should proceed with the case upon the charges, as read before the Court yesterday;—that the variation between the two papers which had been pointed out, was, that a letter referred to in the one, as dated the *thirteenth* day of April, was, in the other, by a mistake of the copying clerk, dated the *thirtieth*.

Alexander J. Dallas, a Master Commandant in the Navy of the United States, being duly sworn, according to law, (and the other witnesses having been directed to withdraw,) deposes and says:—

I commanded the John Adams, bearing the pendant of Commodore Porter. We arrived some time in November last at St. Thomas, in the island of that name. In the afternoon of the same day, Lieutenant Platt, in company with Mr. Cabot, an American gentleman, residing at St. Thomas, and as I understood officiating as Commercial Agent for the United States, came on board the vessel. They mentioned to Commodore Porter that Lieutenant Platt, on a visit to Faxardo, had been very harshly treated by the authorities there. The Commodore, on receiving this information, determined to visit the place, and obtain an apology from those who had ill treated Lieutenant Platt.

I was directed the following day to get under weigh with the John Adams, the Grampus and Beagle being in company, and proceed to as near Faxardo as we could get. The wind proving light, and the pilot being of opinion that the draught of water of the John Adams was too great to permit an approach near the beach, the Commodore directed me to anchor under one of the Passage islands; to get out all my boats, and to prepare an hundred and odd men for the expedition. These preparations taking so much time as to make it late in the afternoon, I was directed to be ready by one or two in the morning, to go on board the Grampus, which vessel would take the boats in tow. I did so, and we got under weigh in the schooner, and arrived the next morning about eight or nine o'clock, in the harbour of Faxardo. On our arrival there, we were directed to prepare the boats for landing. Immediately after landing, a battery was observed on the hill, at which there was a number of men, who, to all appearance, intended firing at us. The Commodore directed one of the boats to proceed and dislodge the men at the battery, and to spike the guns. We then landed, and, after forming the men on the beach, Lieutenant Crabb, with a portion of the marines, was directed to advance on the road leading

to the town of Faxardo, and to take a position there. Lieutenant Stribling was despatched with a flag of truce and a letter from Commodore Porter to the Alcalde of the town. Shortly after Mr. Stribling left us, we marched towards the town, leaving a guard of marines, under Lieutenant Barton, to take care of the boats. We marched to within from twenty to forty yards of where the marines under Lieutenant Crabbe were, where we halted to wait the return of Lieutenant Stribling. During our march, we fell in with a battery of two guns, which we also spiked.

After waiting some time in this position, Lieut. Stribling was discovered returning from the town with two officers, who was said to be the Alcalde and the Captain of the Port. A conversation, through the medium of an interpreter, took place between Commodore Porter and those persons which resulted in an apology to Lieut. Platt. The Commodore asking the officers whether they were all satisfied, to which they assented. The Commodore was then invited by the Alcalde to visit him in the town. The Commodore, in company with myself, and several other officers, and the marines under Lieutenant Crabbe, went so far as to lead us by the force collected; after which, the Commodore returned, and gave orders for us all to return to the beach. At the beach, the men were refreshed with some grog, got into the boats, went on board the Grampus, and returned to the John Adams.

Q. At what hour did you leave the John Adams to go to Faxardo?

A. Between one and two in the morning.

Q. At what time was it expected you would arrive at your destination?

A. We calculated upon arriving very early in the morning.

Q. Did any person from St. Thomas accompany you, besides the pilot?

A. I am under the impression that there was a young gentleman, whose name I do not recollect.

Q. Are you acquainted with the object for taking him.

A. No; I was not.

Q. By Capt. Rodgers. Was not the visit of Commodore Porter to Faxardo, for the purpose of resenting an insult to the American flag, in the person of Lieut. Platt?

A. It was the ostensible object.

Q. (By the same.) Were not the arrangements of Commodore Porter to land in daylight?

A. It was his intention to land as early as possible, certainly by daylight; we calculated to arrive there by break of day.

Q. (By the same.) Could you have made your arrangements to land at night?

A. We could have arranged to land at any time of the night.

Q (By the same.) In what positions did the schooners anchor in the harbour of Faxardo?

A. The Grampus anchored nearly opposite to the battery I have alluded to; the Beagle further up in the harbour.

Q. Were the colours flying on board the schooners when they entered the harbour, and when they anchored?

A. I think they were.

Q. Was the force despatched to dislodge the Spaniards from the battery, before or after the landing of Commodore Porter?

A. Before.

Q. Had it returned before the landing?

A. No.

Q. At what time did it join the main party, and where?

A. It joined us on the beach, and almost immediately on our landing.

Q. How many men and officers landed?

A. I presume near two hundred.

Q. How were they armed?

A. With muskets, bayonets, pistols, cutlasses and boarding pikes.

Q. How long after you landed, was Lieut. Stribling despatched to the town?

A. Almost immediately, or soon after our landing.

Q. What amount of force had the Spaniards collected?

A. I cannot say what amount; but in passing them, there appeared to be about sixty or seventy men with a field piece.

Q. Did they appear to be regular troops or militia?

A. They had the appearance of militia; they were not in uniform.

Q. Was there any complaint made to the authorities at Faxardo, or communication had with them by Commodore Porter, on the subject of the insult offered to Lieutenant Platt, before you landed?

A. None that I knew of.

Q. By Capt. Rodgers. Do you not think that the most effective way to obtain redress was by landing?

A. Yes.

Q. By Capt. Wadsworth. At the time of your landing, was any inquiry made by the Spaniards, as to what force it was?

A. None; I do not think there was an individual to be seen on the beach.

Q. By Capt. Ridgely. Was there any act of hostility committed against any of the subjects of the King of Spain, previous to or after landing?

A. The boat that was sent to dislodge the men and spike the guns at the battery, succeeded in the object; whether that was an act of hostility, must be left to the Court: if it was not, I know of none.

Q. By Capt. Tingey. Was this act of courtesy by the authorities of Faxardo, by invitation into the town, after those transactions that you have related?

A. Yes.

Q. By the same. Was any complaint or remonstrance made by the authorities at Faxardo, to Commodore Porter, at any time during his stay on shore, against his proceedings there?

A. None that I know of.

Q. By Capt. Wadsworth. Do you know the nature of the apol-

ogy made by the Alcalde and the Captain of the Port, which you say was satisfactory to Commodore Porter, and the officers accompanying him?

A. The apology was made to Lieutenant Platt, for the injury done him; but I am not able to state the terms of it.

Q. By Capt. Brown. What was the deportment of Commodore Porter towards the Spanish officers whom he met?

A. Gentlemanly and proper.

Q. By Capt. Henley. Did Commodore Porter consult with you previous to his landing? If yea, state the amount of the consultation.

A. He did not consult me.

Q. By Captain Ridgeley. What was the conduct of the officers and men who landed, towards the subjects of the King of Spain whom they met?

A. We landed as I have stated, and marched up towards the town, committing no personal violence against any one; the conduct of the officers and men was correct.

Q. By Capt. Elliott. From what you could perceive *in* Commodore Porter, previous to, at, and after his landing, with his force, at Faxardo, was he actuated by any other motive than to obtain an apology for the insult offered to one of the officers of his squadron?

A. It appeared to me the only motive.

Q. (By Captain Ridgeley.) Was not the place where you landed, considered as one of the rendezvous of pirates?

A. It had been frequently said so; I knew nothing of it personally.

Q. In the conversation between Commodore Porter and the authorities of Faxardo, was any thing said on the subject of piracy or pirates, and was any demand made for pirates, or for property plundered by them?

A. None that I know of. I was not near enough, however, to hear the conversation between them; and it was not until the Commodore asked the officers if they were satisfied with the apology, that I approached near enough to hear them.

Cross examined.

Questions by Commodore Porter to Capt. Dallas.

Q. Were not our proper colours hoisted, both on the schooners and boats, when they came in sight of the harbour, and during the whole time of the approach and of the landing?

A. Yes.

Q. Was not every thing done openly and fairly, and in my own character, without any attempt to deceive?

A. Yes.

Q. Did I not land in my uniform, though advised by some of my officers to take it off, lest it should make me too conspicuous?

A. You landed in your uniform; I do not recollect any advice.

Q. Did you not, under all circumstances, consider it an effectual course on my part; to secure the officers from insult and interrup-

tion, whilst engaged in the pursuit of pirates in that quarter, by intimidating the inhabitants of those towns or districts, suspected of harbouring and assisting the pirates?

A. Certainly, I think it was a course that would intimidate other places supposed to be a receptacle for pirates, and calculated to prevent them from suffering them to come there, and a means of obliging them to pay more respect unto our officers.

Q. Were not the guns training on us at the time I ordered the party to land and spike them?

A. I think they were endeavouring to train them on us.

Q. Did not Lieut. Stribling, on his return with the flag, inform me that the people or authorities of Faxardo had heard of my coming, and were preparing resistance?

A. I heard of the circumstance, but do not recollect how or from whom I heard it.

Q. Were not my orders to the party who landed, to spike the guns, without injury to the person or the property of any of the inhabitants; not to fire unless first fired upon, and generally to respect the persons and property of the inhabitants?

A. I consider those as the orders that were given.

Q. Did any of the main body enter the town of Faxardo? and was not our whole force so disposed as to impress the people with a sense of our disposition, and our power to repel and punish aggression; at the same time that all actual violence was avoided?

A. The main body did not enter the town. To the latter clause of your question, I answer yes.

Q. Was not the grog sent to the beach as a present from the town to the men?

A. I did not understand it in that way. The Purser was directed to procure some, and when he offered to pay the person from whom he procured it, he was refused, and told it was intended as a present. The person from whom it was procured, was one of those who accompanied the Alcalde and the flag.

Q. After the negotiations and explanations were ended, did not the authorities and inhabitants appear well satisfied and acquiescent in my proceedings?

A. They accompanied us in considerable numbers down to the boats, and there was no other appearance than that of a good understanding between all parties.

Charles T. Platt, a Lieutenant in the Navy of the United States, being duly sworn according to law, deposes and says:

On the 24th October, between the hours of seven and eight in the morning, Mr. Bedford, a clerk in the house of Messrs. Cabot & Bailey, Commercial Agents at St. Thomas, with a letter from those gentlemen, came on board the Beagle, then under my command, lying in the harbour of St. Thomas, informing me that their store had been robbed the preceding night, of goods to not less than the amount of $5,000. The letter contained a request for me to go in search of the goods. I then went ashore, and inquired of the

merchants in that place who had been previously robbed, in order to ascertain whether I would be justifiable in proceeding in search of these goods to Faxardo, at the east end of Porto Rico. On making the inquiry, I was perfectly satisfied as far as I could be, without knowing positively, that the goods were then on their way to Faxardo. I accordingly got under weigh as speedily as I could, taking on board with me a pilot, and a clerk of Messrs Cabot & Bailey, with a description of the goods contained in the advertisement herewith presented to the Court, annexed, and marked (1.) On the evening of the 26th, about 6 o'clock, I anchored in the harbour of Faxardo, with my colours flying. I was anxious, if possible, to get on shore that night, but my pilot, who acted not merely in that capacity, but as my guide and interpreter on shore, through ignorance or otherwise, declined going, stating that he was not able to shew me the way at that late hour. In the morning of the 27th, at an early hour, a boat came along side, with some person in it, bearing the appearance of a soldier, who informed me that the Captain of the Port was anxious to see me on shore, presenting his compliments at the same time. I was at that time preparing to go on shore. *I was* somewhat fearful that the character of the vessel *was not known* on shore, and asked the man whether the character of the vessel was known on shore. He answered that it was. Lest he might have been mistaken, I told him to inform his commanding officer that it was the United States schooner Beagle, and that I should be on shore as soon as possible. So soon afterwards as was practicable, in company with Lieutenant Ritchie, Mr. Bedford, and the pilot, I visited the shore. On my landing, I was told that I could not proceed to town. This, however, I received from a parcel of ragamuffins, who appeared to me more like highwaymen, than any thing I could compare them to. I attempted after this to go again on board my vessel; I was prevented from doing so. This led me to inquire what was the meaning of this course of conduct; whether they were authorized? I was informed by a citizen standing there, that they had no authority to detain me. In evidence of of which, horses were procured (without my asking) by the citizens then for myself and all who were with me, to ride up to the village. On my arrival at the village, I reported myself, having been advised so to do by some of the citizens, first to the Captain of the Port; made known to him my business, the object of my visit, and reasons for my appearing in citizen's dress, and also a letter to a Mr. Campos, shewing the character of myself and vessel. Mr. Campos was a man who, from his wealth, stood high as a person of respectability. The Captain of the Port appeared to be perfectly satisfied with the character of myself and my vessel, took down the names of the officers and the force of the vessel, then directed me to call on the Alcalde: I did so, and pursued the same course with him as with the Captain of the Port. He also appeared perfectly satisfied, and approved very much of my having come on shore in citizen's dress; said it was a very prudent and necessary precaution. He also expressed a confidence in succeeding in secur-

ing the goods; said he had no doubt but he should be able to procure them before night. This conversation was private; there might have been others in the room, but none were I believe within hearing, but the interpreter and ourselves.

The Court not being able to complete the examination of Lieut. Platt, adjourned till to-morrow morning, at 10 o'clock.

SATURDAY, JULY 9TH.

The Court met pursuant to adjournment of yesterday: present, all the members of the Court (excepting Captain Elliott) the Judge Advocate, and Captain Porter.

The President announced to the Court, that Captain Elliott was sick and confined to his bed, and wholly unable to attend the meeting of the Court to-day. The accused stated that he had no objection to the Court proceeding in the business before it, and that when Captain Elliott should be able to resume his seat, the proceedings of the Court during his absence, should be read to him. Whereupon, the Court decided to proceed in the case.

The Court resumed the examination of Lieut. Platt.

The Alcalde then informed me, that the recovery of the goods might probably be attended with some expense: I stated to him that if it were necessary to offer a reward, I was authorized to offer a reward of one thousand dollars, for which I considered the hand-bill yesterday presented to the Court as a sufficient authority. I then proposed to the Alcalde the propriety of my visiting the different stores with the Police, and the Clerk I had brought with me, for the purpose of examining and identifying the goods. The Alcalde observed that, as I had very properly come on shore in citizens' dress, to prevent any suspicion; that it was advisable to let the matter rest entirely with him; that, were I to accompany him, though in citizen's dress, suspicion might be excited. I then left his office, under the impression that the goods would be procured before night, by the Police of the place. A short time after, I received a message from the Alcalde, saying that he wished to see me at his office; I was then fully under the impression that he had obtained some information which would lead to the recovery of the goods. Under this impression, I went over to the office, accompanied by Lieut. Ritchie and the Pilot. On my arrival, I inquired of the Alcalde whether he had sent for me and for what purpose. I was answered by the Captain of the Port in the most insulting, most provoking, and most aggravating manner that it is possible to imagine, saying that he had sent for me himself, to demand of me my register, on the refusal of which, he would confine me in prison. I told them that I thought I had already satisfied them of the character of the vessel; that I had no register to shew them; that a man-of-war carried none; that my commission, my uniform, and my colours, were all that I had to shew, to establish my character; that I had already offered to exhibit these, which they consi-

dered unnecessary, being perfectly satisfied of my character without it. I then expressed my astonishment at the course of conduct they had pursued, so unexpected and so unprecedented, and furthermore, that I conceived it to be a duty which I owed to my country, to myself, and to the officers under my command, to make a formal report of their conduct to Commodore Porter. Lest, however, they might deny having confined me, I left the office with the intention of returning on board my vessel, and leaving the port, not considering myself as a prisoner by their mere say so. I had proceeded about five rods from the Alcalde's house, when I was pursued by the Alcalde himself and two soldiers; the Alcalde himself seized me by the collar. I was brought back, and placed under charge of a sentry. After perhaps an hour's debate, among themselves, I inquired of their interpreter what they meant to do—he informed me that, as they were not satisfied with my character, my having shewn no evidence thereof, they were determined to keep me confined until I should produce some such evidence, or they should hear from St. John's. I then requested permission to go on board with any officer they might choose to send, whom I pledged to satisfy of the character of myself and vessel. This, however, was denied me: I then requested that I might send Mr. Ritchie or the Pilot on board, that they might keep me in bondage if they chose. All was denied me; there was no chance left. I then made another proposition, that I should send a note by any officer of theirs whom they pleased, and pledged myself that, if he did not return, they might then do with me as they thought proper—this was refused. After perhaps another hour, they permitted me to send Mr. Bedford on board for my commission, which at the time, they said was all they would require. I, however, directed him to bring my commission and uniform. So soon as he returned, I put on my uniform and presented my commission. After consulting again for perhaps half an hour, they pronounced my commission a forgery, and me and my officers a damned pack of pirates. I, then, finding the probability of my being confined there some time, proposed the propriety of going to some decent house, where they might place sentery over me. In answer to this, the King's house was recommended, as I understood; I being at the time fully under the impression that the King's house was the most genteel house in the place, invited Mr. Ritchie, and even the Pilot, to accompany me; they being prisoners like myself. On my approaching near enough to discover that it was a mere guard-house, well calculated to produce the yellow fever or plague, I declined taking up my lodgings there, unless they forced me to do it. After some few minutes, they consented to let me return to the Alcalde's office under charge of a sentery. Being fully aware of my unpleasant situation, I again, although repugnant to my feelings, did ask the interpreter what furthermore they required of me. After making the inquiry of the proper authorities, he answered that I had shewn no other commission than one as Lieutenant, and not one as Lieutenant Commandant. They

were determined to keep me there until they could hear from St. John's, or until I produced something that was satisfactory. I asked permission to send Mr. Bedford again on board, which was granted. I directed him to bring all my papers on shore, that I might come across some paper which might be satisfactory, and which it would not be improper to shew them. On the return of Mr. Bedford, I produced the orders from Commodore Porter to me, directing me to take command of the Beagle. They told me an appointment of that kind could not emanate from any thing less than an Admiral, and that they were thoroughly satisfied that I was a pirate: as for Com. Porter, there was no such man in our Navy, and that I could not hoax them in that way. They still continued me confined until a late hour in the afternoon, towards sundown—they, without any further application from me, and for what reason I know not, released me and allowed me to go aboard my vessel. We left the village, mortified very properly, hissed at by the ruff-scuff of the place—went on board, got under weigh, and proceeded to St. Thomas.

On the 12th November, Commodore Porter arrived at St. Thomas, in the John Adams; as soon as he came to anchor, I visited the vessel, reported myself to him, and mentioned to him the circumstances which led to my visit to Faxardo, and the treatment I had met with. The Commodore informed me, it was necessary I should make out a written report. I stated to him it should have been prepared, had I expected him so soon, and that he should have it. The Commodore said that, if circumstances justified my going in the manner in which I went, that he would visit Faxardo, and obtain redress for the insult offered to me and to the flag. I referred the Commodore to Messrs. Cabot and Bailey, and to Mr. Furness—both houses being commercial agents at that place. I went on shore at the request of the Commodore, to request Mr. Cabot to come on board, (Mr. Furness was then on board) and to procure a pilot to carry us to Faxardo. Mr. Cabot returned on board with me. The next morning I got under weigh with the Beagle, having the pilot on board, stood out of the harbour of St. Thomas to join the John Adams, then under weigh, delivered my written report to the Commodore, and was directed by him to proceed ahead with the pilot for Faxardo. The wind, however, proved light, and we were compelled to lay too, off and on during the night. The next morning I was hailed from the Adams, and directed to proceed ahead as before. For reasons unknown to me, the Commodore gave an order, and the vessels came to anchor about 9 o'clock in the morning of the 13th, under the lee of Passage Island. At midnight of the 13th, the Grampus, Beagle, the barges and boats of the Adams, with as many officers and men as could conveniently be spared, got under weigh, and, about eight o'clock next morning, arrived in the harbour of Faxardo. The barges were manned and officered; one barge was sent to attack a fort on an eminence mounting two guns. The rest of the men

landed on the beach. The Grampus was anchored off the battery; the Beagle passing by the battery, anchored so as to cover the landing of the men. I was directed by Commodore Porter, as he passed me, to follow him with as many men as I could conveniently carry in my boat. Lieut. Stribling, about the time of our landing, was dispatched to the town with a flag of truce, and a communication from Commodore Porter to the authorities of the place. About fifteen minutes after our landing, we were directed to fall into line, and march up. We got there in perhaps about fifteen or twenty minutes, from the time we started from the beach. On the outskirts of the town, I mentioned to the Commodore that there were two guns on a causeway, on the road to the village. He ordered some officers and men to spike them. After arriving at about 40 or 50 rods from the village, we halted; a short time after, we discovered a white flag, which proved to be the flag of Lieut. Stribling, accompanied by the Alcalde, the Captain of the Port, the Interpreter, and a number of the citizens. When they met Commodore Porter, they professed their ignorance of the object of his visit. The Commodore stated to them that they ought to have known the object of his visit from the tenor of his note; that he came there for the purpose of obtaining suitable redress, or an apology for the insult that had been offered to the flag of the United States in my person, (pointing to me.) This seemed, at first, to create some considerable astonishment on their part, that they should be accused of having treated me in any way improper. The Commodore then asked the Alcalde, in a very positive manner, whether he had not imprisoned me. His answer was, that he had —after knowing my character, as an officer in the United States Navy; but, that he was not to blame, for that he had been compelled to do it by others.

The Commodore then told him, that, as he was the Chief Magistrate of the place, he had nothing to do with others, and that he should regard him as responsible for any acts of violence that might have been committed on me; that there was then no time for any altercation; that the time had expired, within five or seven minutes, which he had allowed them; that an apology was necessary —such a one as should be dictated by him, a refusal of which, would compel him to resort to arms, which should terminate in the final destruction of the village. An apology was made. It was, that they had imprisoned me wrongfully; that they were sorry for it, and that, in future, they would respect United States' naval officers, as their character deserved. After that, we were pressingly invited to come into the village, and strongly urged to take some refreshments. Commodore Porter did advance—passed by a six-pounder, which was primed, and a man standing by with a lighted match, and a number of armed men that had been collected. He then ordered us to return to the beach, without entering into the heart of the village. The Commodore informed me, at the beach, that it was at first his intention to have accepted the invitation, and

entered the village with the men, but, apprehensive that some difficulties might arise amongst the sailors and men, he thought it better to return, and have the refreshments brought down to the beach. The refreshments were brought down, we partook of them, proceeded to sea, and rejoined the John Adams.

Question. Was it the object of your visit to Faxardo, to recover the property that had been stolen at St. Thomas, or to obtain the persons who had perpetrated the robbery, or both ?

Answer. The object of my visit was to obtain the property, and the pirates, as they were supposed to be, through the Police, and through them only.

Q. Was the United States' flag flying on board the Beagle, during the time that she lay in the harbour of Faxardo ?

A. The flag was flying when we arrived, and was hoisted again at nine o'clock, on the following morning, as I presume such being my orders, and such the regulations of the service.

Q. Was there any flag, ensign, or other distinction, displayed at the time of your landing ?

A. None.

Q. When you landed, do you suppose that the Beagle was known on shore to be an American man-of-war ?

A. I feel perfectly satisfied that her character was known.

Q. Were there many persons on the shore who saw you land from her ?

A. Probably fifteen or twenty.

Q. What was your object in landing without your uniform ?

A. To prevent any suspicions on the part of the boats in the harbour of which there was a great number.

Q. Could not the flag of the vessel be seen as well from those boats as from the village of Faxardo, and the character of the Beagle as well ascertained ?

A. Yes, but all merchant vessels carry the same flag that we did.

Q. Had you, when you landed, any document of any description to verify your claim to the character of an American officer ? If so, what was it ?

A. We carried a letter from one of the most respectable mercantile houses in St. Thomas, to Mr. John Campos, a merchant in Faxardo.

Q. Was that an open or sealed letter ?

A. It was a sealed letter, but had been read to me before it was sealed. It was given me for the purpose of enabling me to go on shore in disguise.

Q. Did you see Mr. Campos while on shore ?

A. I met him at the entrance of the village, before seeing the Captain of the Port and the Alcalde.

Q. When did you hand him the letter ?

A. The moment I arrived at the village.

Q. Did he accompany you to the house of the Captain of the Port and the Alcalde ?

A. He was at the Captain's of the Port I think, and [illegible] at the Alcalde's, and read the letter to them both in my presence.

Q. Do you know whether Mr. Campos had, or had not, at the time in his possession, the goods of which you were in search?

A. I do not know personally; I can only judge from the evidence that I brought home, and am fully under the impression that he was at that time, in possession of the goods.

Q. When you were interrupted on the beach on your landing, do you suppose those who did it, knew you to be an American officer?

A. Yes.

Q. From what circumstance?

A. Because they had sent a boat along side of me, and said they knew my character, and I had sent word to them before landing of my character.

Q. Did you inform the citizens, who interfered in your behalf on the beach, who you were, and what was the object of your visit?

A. I mentioned that I was an American officer in command of the Beagle, and that I wished to report myself to the proper authorities.

Q. Did you in person proceed to any of the stores in town, to inquire after the goods you were in quest of?

A. I was in no store in the place, except Mr. Campos's store, when I went to see him. I was in one other, the store of the gentleman who had lent me his horse; I was asked into his house, and passed into the store, but no further, and with Mr. Bedford privately examined some of the goods to see if they corresponded with what had been taken. This was not done with the view of interfering with the authorities.

Q. Did you see Mr. Campos after you first left the office of the Alcalde?

A. Yes; I found him there when I went to the Alcalde's, after being sent for; he was engaged in conversation with the rest, and appeared very much confused.

Q. Did you appeal to him to verify your character, and what was his reply?

A. I appealed to him; he replied that he had stated my character; urged Mr. Bedford and myself to go to another place to look for the goods, which I declined; he offered us horses to go, and I believe that if I had been disposed to go, they would have released us.

Q. During the period that elapsed between your first visit to Faxardo, and your seeing Commodore Porter at St. Thomas, had you made any report of the affair to him or to the Government?

A. None whatever. I expected him at St. Thomas. (where I was directed to await his arrival,) though not so soon as he actually came.

Q. Did you during that period, consider that the flag of the United States had received an insult which required atonement?

A. Yes, I did.

Q. Did Mr. Bedford, or any other person, accompany you to Faxardo, on the second visit? and if so, for what purpose?

A. Mr. Bedford went down on the second visit, but did not land. The object was that, if any discovery should be made, he might be there to identify the goods.

Q. In the conversation between Commodore Porter and the authorties, was any thing said on the subject of those goods, and what?

A. I do not recollect that any thing was said on the subject.

Q. What is the distance between the beach were you landed, and the village at Faxardo?

A. About a mile and a half.

Q. Had any complaint been made, or explanation asked, either by yourself or Commodore Porter, for the insult you had received, either of the authorities at Faxardo, or of the Island, before your second visit?

A. None by myself, and none that I know of by the Commodore.

Q. (By Capt. Rodgers.) What is the character of the inhabitants of Faxardo? Is it considered a place of refuge for pirates, and are not pirates openly protected there?

A. Yes, I have heard so; I have understood that hundreds of thousands of dollars worth of property had been stolen at St. Thomas, and remnants, or parts of the goods, discovered there and in the neighbourhood.

Q. (By Capt. Thompson.) Will you please to state to the Court the particular instruction under which you thought yourself authorized to land at Faxardo, in order to recover the property in question?

A. The instructions under which I acted were the general instructions from Commodore Porter, of which I was furnished with a copy, as well as the other vessels in the squadron, annexed and marked (H.)

Q. (By same.) Do you know the house of Cabot, Bailey & Co. to be accredited agents of the Government of the United States?

A. I know them to be respected as such by the authorities at St. Thomas, and that they act as magistrates; I mean that Mr. Cabot is.

Cross Examined by the Accused.

Questions to Lieutenant Platt by Commodore Porter.

Q. Had not the island of Porto Rico, and especially the district about Faxardo, been notorious, from common report, before and at the time of your visit, as a rendezvous and refuge for such of the pirates as were unable to keep the sea, and who where generally said to make that their retreat with their plunder, after marauding expeditions?

A. Yes.

Q. Were not those reports communicated to me, and did I not receive frequent and heavy complaints of the piratical character of Faxardo and the country around?

A. Yes; I was present at a conversation between Commodore Porter and respectable merchants at St. Thomas, after his arrival

on the twelfth of November; they stated that protection was afforded to pirates by the inhabitants of Faxardo; that they were generally believed to be concerned with the pirates. They referred him to respectable gentlemen on shore, who had letters from respectable people to that effect.

Q. Were not the guns of the battery trained on the Grampus as she lay abreast of the battery, before any order was given to land?

A. I do not know; they were so trained before they left the Grampus.

Q. Did the party who landed to strike the guns, make any attack or offer any violence to the persons at the battery, or use any force to dislodge them?

A. The party landed and took possession of the fort; the Spaniards abandoned it before our men reached them.

Q. Was not the most perfect order preserved among our men on the march to Faxardo?

A. Yes.

Q. Was any violence or injury of any kind committed by any of our men, upon the persons or property of any of the inhabitants?

A. None whatever.

Q. Were not the grog shops on the road from the harbour to the town thrown open, and temptingly set out with drink, and without any protection?

A. They were; liquor was brought out and offered to me as we were returning; I did not see any thing of the sort as we went up.

Q. Did you see or hear of any instance of the men's quitting their ranks to enter these shops; and had they any other means of getting refreshment until their return to the beach?

A. None whatever.

Q. Were you near us during my conference with the Alcalde; and did you hear distinctly what passed?

A. Yes; I was along side of him.

Q. Did I not exact, in addition to the apology for their ill treatment of you, a promise that aid and assistance should be furnished, and respect shewn to American officers, who might go to Faxardo in pursuit of pirates; and did not the Alcalde promise such aid and respect, so far as lay in his power?

A. Yes; that they should be respected, and the Alcalde promised it.

Q. Did not the Alcalde, on being asked by me why he had put you in confinement, say that he could not avoid it; that he had been compelled to do so by others?

A. Yes.

Q. Did you not understand from the said conversation, and the excuses made by the Alcalde, that there was some mystery in the transaction; and that the regular authorities of the place had been interrupted, and forced from their duty by the irregular interference of unauthorized persons?

A. I drew that conclusion from the conversation that passed, and the apology made.

Q. Did you not ask the Alcalde in my presence, if the goods had been recovered, and did he not answer no?

A. I do not recollect any thing of the kind.

Q. Did you know at the time you went first to Faxardo, that Campos had the goods, or did you get that information afterwards?

A. I received the information since.

Q. Did you hear from many of the persons on shore, after my interview with the Alcalde, that they had been expecting me, and preparing to resist me?

A. I understood from the interpreter, that the visit was not unexpected to him, that he anticipated it.

Q. Did not the Alcalde, and the inhabitants generally, appear to be perfectly satisfied with my proceedings—and did we not all part in good fellowship, and with mutual civilities?

A. They did.

Q. Did you hear any complaint from any of the inhabitants of my landing, or of the treatment they received?

A. None whatever.

Q. Upon your arrival at St. Thomas, after your confinement at Faxardo, what American officer did you find in command there; and did you report to him either verbally, or in writing? Or did you give him information of what had passed at Faxardo; and what advice or instructions did he give you?

A. Lieutenant Sloat came in some days after. I informed him what had passed, but made no formal report to him. He expressed an opinion that it was no more than we had a right to expect from them, but gave no advice.

Q. Did you make a formal report to me of those transactions, immediately on my arrival at St. Thomas?

A. I did, as I have before stated.

Q. Did you afterwards convoy vessels to Ponce, Porto Rico, or go there on other official business, by order of Lieutenant Sloat? And how were you received and treated there, by the public authorities and inhabitants? Was it not with marked distinction and hospitality?

A. I went, not only by orders of Lieutenant Sloat, but of myself. I visited Ponce some time after, in consequence of the accompanying letter from Mr. Furness (read, annexed to the record, and marked (2), where I was received with the greatest possible attention and respect. I was invited to a public dinner, where there were about forty of the most respectable citizens: and it was known that I was the same person who had visited Faxardo;—and I landed in the same uniform that I had on at Faxardo. The particulars of my visit appear in a report made by me to Commodore Porter, dated February 10th, 1825, (read, annexed, and marked (3).

Q. Did they make any such remark as this, that they were determined to shew by their conduct towards you, that *they were not pirates;* and did you understand them as alluding to the affair of Faxardo?

A. No; I understood they were mortified at the treatment I had received at Faxardo, and were determined to shew they were a different sort of people.

Q. Did not some of the most respectable inhabitants of Faxardo apologize for the conduct of the Alcalde, towards you, by saying he was some how under the influence of the populace?

A. Yes; the interpreter himself told me that the Alcalde was swayed by others, and an Irish gentleman there took a very active part on the occasion.

The Court adjourned 'till ten o'clock on Monday morning.

MONDAY, JULY 11TH.

The Court met pursuant to the adjournment of Saturday: present all the members of the Court, (excepting Captain Wadsworth,) the Judge Advocate, and Captain Porter.

A letter was read to the Court, from Captain Wadsworth to the President, accompanied with a certificate from his attending physician, stating that he was too much indisposed to be able to attend the Court Martial this day.

The Court (the accused assenting,) took the same order on this occasion, as on Saturday, in consequence of the absence of Captain Elliott.

The minutes of the proceedings of Saturday, were then read by the Judge Advocate.

The examination of Lieutenant Platt was resumed.

Q. By the President of the Court. How far is it from Faxardo to St. Johns—and is the communication between the places frequent?

A. I understand the distance is about forty or forty five miles, and that the communications between the places are daily.

Q. By Capt. Porter. Was it generally anticipated and understood by the officers of the Navy on the station, and by the persons at St. Thomas, who had heard of the treatment you had received at Faxardo, that I should proceed to the latter place, and get satisfaction for their conduct; and that in doing so, I should land with an armed force, and march to the town?

A. It was hoped by the merchants and respectable citizens of the place, that such would be the case, and was wished for by the officers on the station.

Q. Did this general anticipation of my intended course proceed from any communication from me, to the officers or others, of my intended operations, or merely from the general opinion of the propriety or necessity of the measure?

A. From the opinion of the propriety and necessity of the measure.

Q. Was it the general opinion, and your own, that the course which it was supposed I intended to pursue was a necessary and effectual measure to repress piracy, and ensure respect and pro-

tection to our officers and detachments, when landing in the discharge of their duty?

A. Yes, it was thought to be necessary that such a stand should be taken, until it happened no vessel dared leave the port without the protection of a man of war.

Q. Was it the general opinion, and your own, from your experience of the consequences of the operation at Faxardo, that it had made the most beneficial impression, and had produced effects of great practical utility in the accomplishment of the general objects of our cruise, the suppression of piracy?

A. It was decidedly my impression; and the subsequent treatment I have received from the authorities in the Spanish West India islands, and their conduct since, has created this impression. I never before knew of any aid or assistance being furnished by the authorities of Porto Rico—it has been done since.

Q. Had you not been cruizing a considerable time before your first visit to Faxardo, in the neighbourhood of that place and St. Thomas in the Beagle? Was not the Beagle well known in those parts—and was there not daily and hourly intercourse by means of small boats between St. Thomas and Faxardo.

A. Yes, I had been on the station a short time. I had been cruizing in the neighbourhood of Faxardo within sight of the east end of the island, before I went to St. Thomas, and there was a constant communication between Faxardo and St. Thomas.

The examination of this witness being closed, at the request of a member who had a proposition to submit, the Court was cleared.

The proposition having been submitted, after deliberating upon the same, the Court adopted the following resolution:

It appearing to the Court that what purports to be the proceedings of this Court, and particularly the evidence given by the witnesses who have heretofore been examined, have been published in a newspaper of this City; and this course appearing highly objectionable, and in particular virtually, annulling a special rule of all Courts Martial; that no witness, previous to his examination, shall be permitted to know what testimony has been given by any other person. It is ordered by the Court, that no spectator, other than such persons as may be particularly employed by Captain Porter, and for his use, be permitted to take minutes of the proceedings of the Court.

Whereupon, the Court was opened, and the foregoing proceedings announced.

Robert Ritchie, a lieutenant in the Navy of the United States, being duly sworn, according to law, deposes and says:—

I landed, in company with Mr. Platt, at Faxardo, on the morning of the 27th of October.—Mr. Bedford, a clerk of Messrs Cabot and Bailey, and the pilot, were in company. It was about six or seven in the morning.—We met a number of men on the beach. One man, with a cutlass in his hand, but without any appearance of being an officer or soldier, addressed Lieutenant Platt, asked him for his

register. Lieutenant Platt replied that he carried no register—told him what vessel it was—that it was the United States schooner Beagle. He inquired for the Captain of the Port, and was told he lived in Faxardo. One of the citizens offered to shew us the way, and we started off. We saw the Captain of the Port on our arrival at the town—told him our business. Mr. Platt told him he had come on shore in citizen's dress—that he had brought with him a clerk of the house whose goods had been stolen. The Captain of the Port asked Lieutenant Platt for his register; he replied that he carried none—he was satisfied apparently. Mr. Platt shewed him the letter he had for Mr. Campos;—he sent a young man with us to shew us where Mr. Campos resided. On our leaving him, he appeared perfectly satisfied. After Mr. Campos had read the letter, he offered to render us all the service in his power—said it would be necessary for us to go over to the Alcalde's house, and he would forward our views. On our arrival there, we found the Captain of the Port. Mr. Campos related to the Alcalde what our object was—he appeared perfectly satisfied, and shook hands with us after an introduction. Mr. Campos then requested the Alcalde and the Captain of the Port, to go into a private room, that he wished to speak with them. The door was shut—we heard them in conversation. Mr. Platt proposed to me to go over and get some breakfast, as they were busy. We had just finished our breakfast, when a negro came over with a sword in his hand, and told us the Captain of the Port wished to see us. On our arrival at the Alcalde's house, the Captain of the Port came up to Lieutenant Platt, and demanded of him his register. He replied, I told you, and I tell you again, my vessel carries no register. He appeared very angry, and said he would detain us until he heard from St. John's. Lieutenant Platt then attempted to leave them. The Alcalde took him by the arm, and said he must consider himself a prisoner. He asked him why he was detained as a prisoner? The Captain of the Port replied, you are nothing but a pirate. I began to walk to and fro, and he ordered me into the same room where Lieutenant Platt was—and he said if we were not satisfied with that, he would order us to the King's house. Just at that moment, a gentleman came up and accosted me by name. His name is Craft—he is a planter in the Island. He asked me what my difficulty was, and I told him. He turned round to the Captain of the Port, told him who I was, that he had seen me at St. Johns, at the funeral of Lieutenant Cocke, and knew me to be an American officer. He reasoned with the Captain of the Port upon the impropriety of his conduct, when he knew me to be an officer in the Navy. The Captain of the Port appeared very angry, was walking about, swearing in Spanish. Lieutenant Platt asked him if he would allow me, or any gentleman present, to go on board his vessel and get his commission? He said no, he would send us to the City—St. Johns. The gentleman who acted as interpreter, and had been Alcalde before, offered himself to go; he objected to that, and allowed Mr. Bedford, (the

k of Mr. Cabot,) and Mr. Campos to go. They brought both
niform coats ashore, and Mr. Platt's commission. The com-
ion was read to him by the interpreter. He threw it on the
, said it was a forgery, that there was no Lieutenant Comman-
in it. The Captain of the Port then became very abusive,
ed about, and I could frequently hear him talk of Commodore
er and the officers. I then attempted to come out of the door,
two negroes who stood there with cutlasses, ordered me back.
e conversation took place between the Captain of the Port, the
lde, and the interpreter in the back part of the room, but I
l not understand what was said. The interpreter then came
ard, and asked Lieutenant Platt, whether he had any thing to
that he was Lieutenant Commandant, for that the Captain of
Port, as he said, was so ignorant he could not beat it into his
. He said he had his appointment from Commodore Porter,
h he could shew them—his orders to the vessel. Mr. Campos
e mean while had brought horses there, and told Lieutenant
he might probably get the goods at a small town about twenty
off, the name of which is Naguaba. Mr. Platt declined going,
ent Mr. Bedford and Mr. Campos on board for all his papers.
as some time before they returned with the papers, and we
kept in the mean while, guarded in the room by the negroes.
n they returned with the papers, Lieutenant Platt shewed the
ain of the Port his orders. The Captain of the Port did not ap-
satisfied with the papers, until the interpreter and Mr. Craft
him they knew it to be Commodore Porter's signature, that
had seen it before. At this time a number of citizens had met
e room together;—a long conversation took place between the
lde, the Captain of the Port, and the citizens. Mr. Craft and
nterpreter, who appeared very warm in our favour, told them
impropriety of their conduct in detaining us. They at last
ed about sun set, to let us return to our vessel. We proceed-
owards the vessel, and at the outskirts of the town saw some
guards there, who laughed at us. We took no notice of them,
assed on, got on board the schooner about seven or eight o'clock,
nade the best of our way to St. Thomas.

e told the Captain of the Port while he had us detained, that
modore Porter was coming out, and we should acquaint him
our treatment. Neither the Alcalde nor the Captain of the
had any uniform on: I asked them why they had no uniform
they said it was none of my business.

n the morning of the 14th November, we arrived in the har-
r of Faxardo, under the command of Commodore Porter.—
ding in, the Commodore hailed Lieut. Platt, and told him to
l in, and cover with his schooner the landing of the troops.—
did so, and had every thing clear for action. After the men
the Grampus and the boats had landed, the Commodore, in
ing by, ordered Lieut. Platt to come on shore. I landed with
Platt; the troops were then ordered to march. Before we got

on shore, Lieut. Crabbe had marched with the marines, and Mr. Stribling had gone with the flag. Mr. Pendergrast, and the party who had spiked the guns on the hill, just joined us. We all marched off, leaving Mr. Barton, with a party of marines, to guard the boats. On our passing two guns, about a quarter of a mile from the beach, the Commodore directed Mr. Pendergrast to spike them, which was done. On our arrival near the town, I observed Mr. Crabbe, with the marines, stationed about four or five hundred yards from a field piece at the entrance of the town. The Commodore then ordered the men to halt about one hundred yards from Mr. Crabbe. After we had been there about ten or fifteen minutes, I observed Mr. Stribling with the flag, coming down with the Alcalde and the Captain of the Port. When they arrived, the Commodore requested all the officers to assemble together under a tree. The Commodore told the Alcalde the object of his visit; that he must make an apology to Lieut. Platt for his treatment, satisfactory to the officers round. He did apologise. The Commodore then told him that, should any officer hereafter land there, he must treat him with every respect that was due to him. The Commodore then shook hands with both of them. They gave him an invitation to go into the town. The Commodore asked if there were any refreshments, he wished some for his men. I pointed out a man with whom we had breakfasted, who said he would furnish liquor. The Commodore walked into the edge of the town with the Alcalde and the Captain of the Port. He then wished them good-by, and said he should march his men down to the beach, where they could get the refreshments. I believe I was the last man out of the town. Mr. Campos came up, and asked me if I would carry a letter from him to Mr. Bergeest at St. Thomas. I said yes, provided it would not detain me. I asked him if he had heard any thing of the stolen goods. He said he had not, though he had made every inquiry.—He went for the letter, but not returning soon enough, I proceeded to the beach. On my return, I found the houses that had been deserted as we went up, had their inhabitants in them; they took off their hats to me as I passed, and gave me some water to drink. I got down just as the men did with the liquor. It was paid for, and we went off. Several persons on the beach on our return offered us cocoa nuts.

Q. When you arrived on the first occasion in the harbour of Fuxardo, and while you remained there, were your colours flying on board the Beagle?

A. When we arrived it was just at sun-set. The colours were then flying; and as we landed, Mr. Platt ordered them to be hoisted at 9 o'clock.

Q. Do you think that when you landed, the character of the vessel was known to the people on shore?

A. I think so: for a man who had come off to us, had by this time landed, and I presume had acquainted them with our character.

Q. Was there any interruption offered to you on the beach when you landed?

A. Only by the man that I before mentioned, who had a sword in his hand, and his head tied up.

Q. Was your character announced to the people on the beach?

A. Yes.

Q. Was it known to all with whom you spoke that you were American officers?

A. Yes.

Q. What was the object of landing without your uniforms?

A. We thought it would increase our prospect of success if it was not known who we were.

Q. Why then did you announce who you were?

A. We announced it to the authorities as we had intended, and to the man on the beach: we knew we could get up to the town before him.

Q. Did Lieut. Platt and yourself examine any of the goods in any of the retail stores in the town, or make any inquiries there as to the goods?

A. No; we had asked permission of the Alcalde to do so, and it was refused us.

Q. Did either of you go to any of the stores?

A. No; the man who kept the public house had a store, but we did not go in; and we first entered Mr. Campos' store, but did not examine any of the goods.

Q. What was the treatment you received from the inhabitants of Faxardo, besides the Alcalde and the Captain of the Port?

A. We received from four or five gentlemen there very kind treatment, but from the lower classes our treatment was rough.

Q. Did those who were rough in their behaviour, appear to know who you were?

A. I do not know. Mr. Craft mentioned to the persons in the house of the Alcalde and round the door who we were.

Q. Did they carry you, or order you to the jail?

A. They ordered me, and the Alcalde took Mr. Platt, and led him into a room in his house, and they also spoke of sending us to the King's house. The room in which we were kept was occupied as a stable, the front room was occupied as his office. On reflection, I recollect that Mr. Platt, accompanied by the two negroes, was ordered to the jail, which was about fifty yards from the Alcalde's house. I did not accompany him; he was absent only a few moments.

Q. Did you at the time attribute the conduct of the Captain of the Port and the Alcalde to their ignorance of your characters, or to a wish to insult the American flag in your persons?

A. I thought at the time they wished to insult us; I afterwards understood they were bribed by Mr. Campos to do it. I had no idea they were ignorant of our character.

Q. When you were released, were you ordered to go on board your vessel with any insulting language?

A. Not by any body else than these I have spoken of at the skirts of the town. At leaving the Captain of the Port, I told him the Commodore would pay him a visit shortly ; he shook his cane at me, and said something in Spanish, which from his manner I thought was abuse.

Q. When the Grampus and Beagle entered and anchored in the harbour of Faxardo, were their colours flying, and were they prepared for action ?

A. Yes : The Commodore's broad pendant was flying on board the Grampus ; the flags were flying on board the Beagle, and the boats and all were ready for action.

Q. Where did the Grampus anchor ?

A. The Grampus anchored abreast of the battery on the hill.

Q. Did you see any preparations making in that battery to fire on you, and how soon after anchoring ?

A. As we were standing in, I saw a number of men standing in the battery on the hill, a company to each gun, and I thought they were preparing for action.

Cross Examined on the part of the Accused.

Q. Did you not find, on your first visit to Faxardo, some person or persons in search of property stolen from other islands besides St. Thomas ?

A. Yes.

Q. Had you any doubt at the time of your detention at Faxardo, that they all perfectly knew the real character of yourselves and vessel ?

A I had no doubt of it.

Q. From information since obtained, what do you believe to have been the real object of the persons who caused your detention ?

A. I thought at the time the object was to insult us : I have since received information, which has induced me to believe that Mr. Campos at that time had the goods in his possession, and that he had bribed the Alcalde and the Captain of the Port, to act towards us as they did.

Q. Before my visit to Faxardo, and at the time I proceeded from St. Thomas, on the expedition to Faxardo, was that place and the district around, notorious as the haunt and refuge of pirates ?

A. Yes ; I have understood from good authority, that they plundered not only on the high seas, but on shore.

Q. Was the general opinion of the officers and of other persons interested in the suppression of piracy, decidedly in favour of my expedition to Faxardo ; and was it not generally anticipated and thought proper, after the insult to Lieut. Platt.

A. Yes.

Q. Were the practical effect and consequences of my operations at Faxardo, found to be highly beneficial and useful ; and was the measure applauded even in Spanish towns and in Porto Rico itself ?

A. Yes, particularly at Ponce and Aguadilla, where I afterwards was.

Horatio N. Crabbe, a Lieutenant in the Marine Corps of the United States, being duly sworn according to law, deposes and says:

I was on board the John Adams as commanding marine officer of the guard. On our arrival at St. Thomas, we heard of an outrage that had been committed by the authorities at Faxardo upon the persons of Lieutenants Platt and Ritchie. We proceeded from St. Thomas, for the purpose, as I understood, of obtaining satisfaction for the insult. The schooners Grampus and Beagle were in company, and we anchored with the ship off Passage Island. The boats of the ship and the men to be taken from her were got in readiness for service. We left the Adams about sun-set on the evening of the 13th of November, proceeded on board the schooners, and on the morning of the 14th, between seven and eight o'clock, anchored in the harbour of Faxardo. The first boat that left the Grampus, was under charge of Lieutenant Pendergrast, accompanied by Lieut. Barton of the Marine Corps, with the marines of the Grampus, thirteen or fourteen in number. I do not know the orders that Mr. Pendergrast received. I saw him take possession of the battery before the rest of the boats had landed, without any opposition. About nine o'clock all the men had landed. We were formed in line on the beach. I received a message from Commodore Porter stating that he wished to see me. I repaired to the place where he was standing, and received orders from him to form my guard—look for the road to the town; proceed and take up a favourable position to cover the advance of the main body. I found the road without difficulty; marched my guard off, consisting of two sergeants, two corporals and twenty privates. I had also with me from the ship, a boy who is the marine drummer; a master at Arms of the John Adams, and a drummer from the Grampus; the whole, including myself, amounting to twenty-eight persons. At the distance of about half a mile from the beach, there were two long nine pounders mounted on a platform in the middle of the road. I halted the men to examine whether they were charged or not, and found they were not. I at the same time took off the aprons and threw them on the ground, after which, I continued my march towards the town. When about half way between the beach and the town, I observed a small number of persons following me with a white flag. Not conceiving that I was under the necessity of waiting for them, until I discovered Lieut. Stribling to be one of the persons accompanying the flag—I proceeded on the road. At this time I was within sight of the town, approaching a position where I had contemplated halting to await his arrival. I halted upon that ground until he came up, and in reply to some observations from him, I told him I would escort him into the place —he replied very well. I suffered him to get in advance of me twenty or thirty yards, when I put the men in motion and followed him at a slow pace. I observed some movements among the Spaniards

which I thought indicated hostility on their part. When Lieut. Stribling came up with me, there was a white flag held by the Spaniards at the entrance of the town.

They came out to meet him. I was at the time marching on slowly in his rear, when the flags met; I saw three or four Spaniards kneel and present their muskets. I had determined to push on at quick step and render him assistance, if it was necessary. I however received a message from him requesting me to halt, until his return from the town. At this time I was from one hundred and fifty to three hundred yards of the town. Commodore Porter arrived shortly after Lieut. Stribling left me to go into the town, and halted some distance in the rear of the marines. He came to the ground I occupied, and directed me to place my men in a position to face the Spaniards, which I did.

Not being able to complete the examination of Lieut. Crabbe, the Court adjourned till to-morrow morning at 10 o'clock.

TUESDAY, JULY 12.

The Court met pursuant to the adjournment of yesterday: present, all the members of the Court, (except Captain Wadsworth, who still continues too much indisposed to attend,) the Judge Advocate, and Captain Porter.

The minutes of the proceedings of yesterday were read. The examination of Lieut. Crabbe was resumed.

A short time after Lieut Stribling was observed returning, accompanied by the Alcalde, and some other persons from the place, I was directed by Commodore Porter to occupy a position, on both sides of the road, and to suffer none to pass, excepting those who were in immediate attendance on the flag. Those instructions were obeyed. The Commodore returned to where the officers were assembled, and there received the Alcalde. I do not know what occurred there, being at too great a distance to hear what was said. After a short conversation between the Commodore and the Alcalde, I observed them approaching me. The Commodore, as he passed, directed me to follow him, with the marines, to the town; stating, at the time, that he had received an invitation himself, his officers, and men, to partake of some refreshments after their march. We entered the outskirts of the place; I then had an opportunity of seeing the number of Spaniards drawn up, which amounted to about three times the number of the marine guard. They appeared to be militia, and with muskets. There was also another party on horseback, armed with swords, and a small number with a field piece, which I presumed to be a six-pounder. After some conversation between the Commodore and the Alcalde, the former stated, that if refreshments were sent to the beach, they should be paid for; at the same time stating to me, that he did not wish to bring all the men into the place, as he was afraid some excesses might be committed, which would put an end

to the peaceable settlement of the business. Commodore Porter then parted with the Alcalde, as I thought, upon friendly terms, left the place, accompanied by his officers, and returned to the beach. I omitted to mention, that, when I first received my instructions from Commodore Porter, I had particular orders not to suffer my men to commit any outrages upon the property of the inhabitants along the road; nor to commit any acts of hostility myself, unless I met with resistance.

On our return to the beach, I brought up the rear with the marines; we received the refreshments, after which we embarked, and went on board the schooners, and proceeded to the John Adams.

A number of the inhabitants accompanied us to the beach. The persons who brought the refreshments refused to receive payment for them.

Lieutenant Ritchie produced again by Capt. Porter:

Q. Did Mr. Campos give any reason for advising Lieut. Platt and you to go to Naguaba, in search of the goods; such as its being a noted piratical establishment, &c. ?

A. He said it had been noted as a place of deposit for stolen goods, and that he had once before found goods there, which had been stolen.

Q. By same. Are you acquainted with the situation of Naguaba and Boca del Inferno, on the coast of Porto Rico; and how far are they respectively from Faxardo and Ponce?

A. Naguaba is about 20 miles from Faxardo, and Boca del Inferno about 16 miles from Ponce—between Naguaba and Ponce.

Q. By same. Were those places, (Boca del Inferno, and Naguaba) also notorious as piratical haunts?

A. Both.

Thomas B. Barton, a Lieutenant in the marine corps of the United States, being sworn according to law, deposes and says:

I was on board the Grampus, as passenger, for Thompson's Island On the 14th November last, about 8 o'clock in the morning, the Grampus and Beagle, with the boats of the Adams, entered the harbour of Faxardo. The Grampus came to anchor opposite a two-gun battery, at which time I could plainly perceive fifteen or twenty persons in the battery, loading the guns and training them towards the Grampus. I immediately after received orders to proceed in the launch with Lieut. Pendergrast, first [lt.] of the Grampus, with fourteen marines, the guard of the Grampus; Lieutenant Pendergrast received orders from Commodore Porter to proceed in the direction of the two-gun battery, with as little hazard as possible, and take the fort, spike the guns, and destroy the ammunition. We pulled off from the Grampus, from 1 2 past 8 to 9 o'clock. The people in the fort were, at the time, endeavouring to get the guns of the first to bear upon the launch. The course of the boat was altered, which prevented them from bringing the guns to bear upon

us. They motioned with their hands for us not to proceed. succeeded in reaching the rear of the fort and landed ; and then, in reaching the fort, situated about 80 feet above the level of the ocean. Just at the edge of the fort, we saw about three or four of the Spaniards—the rest had run.

We immediately spiked the guns, and destroyed the ammunition, consisting of one round shot, one charge of powder, and a canister of small grape, musket balls and spikes. One gun was charged, the other about half loaded, it had powder and ball, but the canister was not in it, both of them primed, and each having a lighted match along side.

Agreeably to our orders, we immediately proceeded down to the beach, followed the motions of Commodore Porter who had first landed with the troops and sailors on the beach, near the road leading to the town of Faxardo. On our arrival on the beach, Commodore Porter ordered me to remain in the rear to protect the boats at the landing. I had from twenty to twenty-five men, including marines and sailors. I was particularly ordered not to suffer a single person under my command to commit depredations on persons or property. The troops under the Commodore a short time after, marched off on the road leading to the town of Faxardo. After an absence of about from two to four hours, the main body returned; after receiving some refreshments on the beach, we were ordered to re-embark for the Grampus and Beagle. Whilst on our way to the vessels, I could discover eight or ten men in the fort endeavouring to draw the spikes out of the guns, but they could not succeed. We got on board, and proceeded immediately out of the harbour.

Q. At what time was Lieut. Stribling despatched with the flag of truce ?

A. I do not know. I believe that when we landed on the beach, both he and Lieut. Crabbe were on their way towards the town.

Q. Were the Spaniards whom you saw in the battery armed ?

A. They had no small arms I believe.

Elnathan Judson, a surgeon in the Navy of the United States, being duly sworn according to law, deposes and says :

Q. By Captain Porter. Do you recollect a conversation between Mr. Platt and myself, when we first landed at the harbour of Faxardo, respecting the omission of Mr. Platt to bring Mr. Bedford on shore ; and my reply to his apology for the omission, that we must first inquire for the goods, and if found, we might send for Mr. Bedford to identify them, or any thing to that effect ?

A. I recollect a conversation to that effect.

Lieut. Platt again called.

Q. By Captain Porter. Have you any recollection of asking the interpreter in presence of the Alcalde and myself, whether the goods you first came in search of had been found, and what was his answer ?

A. I recollect perfectly well asking the question. It was after

the Commodore had been invited up to the village. He told me he was not aware of any discovery having been made. I was at the time in company with the Commodore, and within his hearing.

The Court adjourned till 10 o'clock, to-morrow morning.

WEDNESDAY, July 13th.

The Court met pursuant to the adjournment of yesterday: present all the members of the Court, the Judge Advocate, and Captain Porter.

The proceedings of yesterday were read. The Judge Advocate then read and submitted to the Court the following documents.

Instructions to Commodore Porter, dated February 1, 1823, marked (4.)

Commodore Porter to Secretary of the Navy, dated Nov. 15th, 1824, marked (5.)

Lieut. Platt to Commodore Porter, dated November 11, 1824, marked (No. 6.)

Stephen Cabot to Commodore Porter, dated November 12th, 1824, marked (No. 7.)

Bergeest and Whlborn to Commodore Porter, dated Nov. 11th, 1824, marked (No. 8.)

The Judge Advocate stated that he had no further evidence to lay before the Court in support of the first charge and specification under it. Captain Porter, by his Counsel, submitted to the Court a certain paper hereunto annexed and marked (1.) Whereupon the Court was cleared to deliberate upon the same.

After mature deliberation, the Court determined that it would receive any communication from the Counsel of Capt. Porter in support of the exceptions which he had taken to the second charge and the specifications thereof; but that all such communications must be submitted in writing: the Court also wishes that the same be presented with as little delay as possible, and after receiving them, the Court will proceed to deliberate upon the same.

The Court being opened, the foregoing resolution of the Court was announced to the accused.

The Counsel for the accused then applied for time till to-morrow morning; whereupon, the Court adjourned till to-morrow morning, at 10 o'clock.

THURSDAY, July 14th.

The Court met pursuant to the adjournment of yesterday: present, all the members of the Court, the Judge Advocate, and Captain Porter. The minutes of the proceedings of yesterday were read. Captain Porter handed to the Court a letter from Mr. Jones, his Counsel, stating that a severe indisposition would prevent him from attending before the Court to-day. Capt. Porter requested the further indulgence of the Court till to-morrow; whereupon the Court adjourned till to-morrow morning, at 10 o'clock.

FRIDAY, JULY 15TH.

The Court met pursuant to the adjournment of yesterday: present, all the members of the Court, the Judge Advocate, and Captain Porter. The minutes of the proceedings of yesterday were read.

The Counsel of Captain Porter then proceeded to state to the Court the objections to the second charge and specifications thereof, which he stated had been drawn up with great haste, and while labouring under great indisposition, and would require to be fairly transcribed before the paper could be annexed to the record. This he promised to have done, and to transmit the paper to the Judge Advocate.

The Court was cleared, and having come to the resolution that it could not act upon the paper read by the Counsel until it was laid before the Court, it would take no order on the subject until that was done; whereupon the Court was opened, and adjourned till 12 o'clock, to-morrow.

SATURDAY, JULY 16TH.

The Court met pursuant to the adjournment of yesterday, and at four o'clock the Counsel for Captain Porter presented the paper which contained the objections read yesterday, and the Court adjourned till ten o'clock on Monday morning.

MONDAY, JULY 18TH.

The Court met pursuant to the adjournment of Saturday: present, all the members, the Judge Advocate, and Captain Porter.

The minutes of the proceedings of Saturday were read. The paper submitted to the Court on Saturday, was read by the Counsel for Captain Porter, and annexed to the record, and marked (K 1.) After hearing the same, the Court was cleared, and it was determined that the Court would receive the remarks, which the Judge Advocate had been requested to prepare, with open doors, and would then proceed to deliberate upon the questions that had been raised.

The Court being opened, and the foregoing resolution announced, the Judge Advocate proceeded to read his reply to the objections that had been urged on behalf of the accused, which was annexed to the record, and marked (K 2.) Whereupon the Court was cleared, and after some time spent in deliberation, the Court was opened, and the following resolution announced:

The Counsel for Captain Porter, after pleading generally, not guilty, under protest, and reserving a right at any future stage of the trial, to take exceptions to the form and validity of the charges and specifications, or any of them; has now excepted to the second charge and specifications thereof, insisting that the same are defective in form, and that the facts therein set forth, do not constitute any military offence, of which a Court Martial can take cognizance.

It being a matter of doubt, among some of the members of the Court and the Judge Advocate, whether a decision upon this question would necessarily involve a final decision of the case, and preclude the accused from proceeding, under the plea of Not Guilty, to offer any evidence in the case, and should the Court decide that it can take cognizance of the charge, &c. it being highly desirable that the whole case should be fully investigated. The Court is desirous of obtaining the opinion of the Attorney General upon the following questions.

1st. Whether the second charge, and the specifications thereof, are drawn up with sufficient precision, and in legal form, and whether the facts therein set forth, do allege offences, cognizable before a Court Martial?

2nd. Whether the decision of the Court, upon the exceptions taken, necessarily preclude the Court from calling upon the accused to plead, absolutely to the said charge and specifications, and proceeding to trial thereon, or whether such decision will be final, notwithstanding any waiver by the Judge Advocate, of such consequence? And that the same be transmitted to the Secretary of the Navy, with a request, that he submit the same to the Attorney General of the United States, for his opinion thereon.

Commodore Porter, having heard the order of the Court, referring certain questions to the Attorney General, would renew the application, suggested the other day by his Counsel, to reply in writing, to the answer of the Judge Advocate, to his objections, against the second charge, and the specifications of the same; if the questions are to be submitted to the Attorney General, accompanied by the arguments, that have been submitted to this Court, on both sides of the question.

The Court was cleared, to deliberate upon the application, and after some time, the Court was opened, and Captain Porter was informed, that the Court had decided not to receive any rejoinder?

The Court thereupon adjourned till 2 o'clock, to-morrow.

TUESDAY, JULY 19TH, 1825.

The Court met pursuant to the adjournment of yesterday: present, all the members of the Court, the Judge Advocate, and Captain Porter. The proceedings of yesterday were read.

The Judge Advocate stated to the Court, that he had communicated to the Secretary of the Navy, the resolution of the Court, on yesterday, with the questions annexed to the same; and that he had just received from the Secretary of the Navy, certain documents, which were read, annexed to the record, and marked, L. M. and N.

After reading the same, Captain Porter stated to the Court that, with a view of preventing any unnecessary trouble or difficulties, he would withdraw the exceptions that has been urged on his behalf, to the second charge and specifications, which, with the permission of the Court, should be done to-morrow, in writing, and

that he would then state the considerations by which he was guided. To this proposition the Court acceded. Whereupon the Court adjourned till 10 o'clock, to morrow morning.

WEDNESDAY, JULY 20TH, 1825.

The Court met pursuant to adjournment of yesterday: present, all the members of the Court, the Judge Advocate, and Captain Porter. The proceedings of yesterday were read.

Captain Porter stated to the Court, that he, being very much indisposed, would ask permission of the Court to read, by his Counsel, the paper to which he had referred yesterday;—to this the Court acceded—and Mr. Jones, the Counsel for Captain Porter, commenced reading the same.

While proceeding to read it, the Judge Advocate stated, that he considered a part of the paper as objectionable, inasmuch, as it was a comment upon the reply read by him, to the exceptions which had been taken to the charge and specifications, and to which the Court had already announced its determination to receive no rejoinder. Whereupon, the Court was cleared, to deliberate upon the question: and after maturely examining and considering the paper submitted, the Court is of opinion, that all that part of the same, commencing on the second page, with the words, "I beg leave further to state," and terminating at the bottom of the fourth page; and the passage commencing on the fifth page, with the words, "whether it may hereafter" and terminating at the end of the first paragraph on the sixth page, is objectionable, on the ground stated, and as not pertinent to any matter or question now before the Court, for its consideration, and consequently cannot be received. Whereupon, the Court was opened, and the foregoing proceedings read by the Judge Advocate. The Counsel for captain Porter then proceeded to read to the Court, the paper, as received by the Court, which was annexed, and marked (O.)

The Judge Advocate then read and submitted to the Court, the following documents, referred to in the first specification of the second charge.

1st. Copy of a letter from Captain Porter to the President of the United States, dated March 17th, 1825, certified by the Chief clerk of the Navy Department, to be a true copy from the original, filed in that Department. The Counsel for the accused, objected to the production of the certified copy of the letter to the President, and required the production of the original, which, as he stated, appears to be in the Navy Department; he further stated, that Captain Porter believed, that a variance existed between the copy offered and the original, as to the date. The Court was cleared, and after some time spent in deliberation, was re-opened, and the decision of the Court was read, that the copy certified by the Chief clerk of the Department was not admissible in evidence. Captain Porter then presented the following minute of explanation.

Captain Porter begs leave to explain, that his call for the originals, though founded on one of the most indispensable rules of evidence, which requires the best evidence the nature of the case admits, was not intended to stop the reading of the copies "de bene esse;" with an understanding and proviso, that the originals, if extant, shall be produced: he observes some discrepancies between the copies offered and his own; and therefore wishes that exact accuracy shall be obtained by the production of the originals; which he understands can be done without any inconvenience, since they appear to be among the archives of the Navy Department.

The Judge Advocate then called upon Captain Porter to produce a certain correspondence between himself and Mr. Monroe, late President of the United States, bearing date the 10th and 12th days of March, 1825, being two notes from Captain Porter of the aforesaid dates, to Mr. Monroe, and one note from Mr. Monroe, dated the 12th March, and such other note from Mr. Monroe, if any other there be, referred to in a letter from said Captain David Porter to the Secretary of the Navy, dated April 13, 1825. He further stated, that the Counsel for Capt. Porter, and Captain Porter himself, had been notified on the 8th July, instant, to produce the aforesaid papers on the trial of this case.

To this application, Capt. Porter made the following answer:—

In answer to the call made by the Judge Advocate for the production of a certain correspondence, between Cap. Porter and Mr. Monroe, late President of the United States, dated on the 10th and 12th days of March last; being two notes from Capt. Porter of the aforesaid dates to Mr. Monroe, and one from Mr. Monroe, dated on the 12th, he remarks, from the reference to dates, after Mr. Monroe had ceased to be President of the United States, that a correspondence merely private and unofficial, is what this call purports to have designated. He conceived the specifications vague and uncertain enough, when it accused him of the writing of insubordinate and disrespectful letters, of which, neither the identity nor the exceptionable passages were pointed out; otherwise than by a naked reference to dates; but now, letters to which not one of the specifications purport to bear the remotest reference, are called for. Capt. Porter, in answer to this call, has only to say, that it is incumbent on the Judge Advocate in the first instance, to shew the relevancy of this correspondence to the matter in issue, which of course will include the kindred question. By what right is the private and unofficial correspondence of the accused to be subjected to this inquisitorial power? Is he to be compelled to disclose his private correspondence, merely to have it examined to see whether it contain any criminating matter? And if it should be subjected to this inquisitorial power, and should appear to have been so offensive in its language, is it to be contended that he could be called to account before this Court, for any offence that could be taken at an unpublished correspondence? But he has this only to remark, in conclusion, that as Mr. Monroe is a party to the alleged correspondence, is the depository of a part

or the whole of it, and of course is entitled to all the inviolate sanctions of a private correspondence; when he shall give up his part of it to the prosecution, or when it shall be authentically certified to Capt. Porter that Mr. Monroe desires the disclosure of it, then it will be time enough to call upon Captain Porter to decide on the expediency of surrendering such parts of the correspondence as may be in his hands; but he reverts to the original question, and demands from the Judge Advocate an explanation, under what specification, and for what purpose this newly designated correspondence, prima facie, so foreign to any thing in the matter of the accusation, is to be offered in evidence?

The Judge Advocate then called upon the Court for permission to issue interrogatories, to take the deposition of Mr. Monroe. The Court was cleared to consider this question, and it determined that the deposition of Mr. Monroe, may be taken upon interrogatories. Whereupon the Judge Advocate was directed to prepare his interrogatories, and to submit the same to the accused, who *shall be* at liberty to file cross interrogatories, if done without *delay, and that* the same be transmitted to the witness with a request that he answer the same, and swear to such answers before any judge, magistrate, or notary public, and that the same be deemed a sufficient authentication of such evidence. Whereupon, the Court was opened, and this decision announced.

Capt. Porter having heard the order read, directing the deposition of Mr. Monroe to be taken, on interrogatories, as well on the part of the Judge Advocate as of the accused, suggests, that before he can frame any interrogatories on his part, discreetly pointing to the gist of the accusation, which the correspondence before alluded to, between himself and Mr. Monroe, or the deposition of the latter, may be cited to support it, will be necessary for the requisition upon the Judge Advocate, contained in Capt. Porter's answer to the call for the said correspondence, to be complied with; namely, to declare, specifically, the purpose and object of offering the said correspondence in evidence; and the particular point of the accusation to which it is supposed to relate. Capt. Porter begs leave further to suggest, that the interrogatories to be exhibited to Mr. Monroe, on the part of the prosecution, will probably only go to the authentication of the supposed correspondence which can of course, afford no clue to divine the purpose, or the gist of the accusation, for which the correspondence is wanted.

The Judge Advocate inquired whether the foregoing was designed as an application to the Court; to which the Counsel of Capt. Porter replied, that it was an application to him. The Judge Advocate then remarked that he must answer in the negative, and decline going into any specification. It was then said by the Counsel for the accused, it would be deemed an application to the Court.

The Court was cleared to deliberate upon the application on the part of the accused, and when it was opened, it was announced that the application is not complied with.

The Court then adjourned till 11 o'clock, to-morrow morning.

THURSDAY, JULY 21ST.

The Court met pursuant to the adjournment of yesterday: present, all the members of the Court, the Judge Advocate, and Captain Porter.

The proceedings of yesterday were read. The Judge Advocate then proceeded to read, (it being admitted that the original is in the handwriting of Captain Porter,) the original letter from Capt. Porter to the President of the United States, and it appearing that the same corresponded with the certified copy which was offered yesterday, with the exception that the word President was written at full length in the one, and Prest. in the other; that Mr. Randall's name was, in the original, spelled with one *l*, and with two in the copy; and that the date of the original was, April 17th, 1825, and that of the copy, 17 April, 1825. The variations were corrected, and the copy annexed to the record, and marked (5.) The Judge Advocate stated that he had left the documents, which it was designed to exhibit in evidence, at the Navy Department, with a request that they might be particularly compared with the originals, and that they should be brought down by a witness, prepared to swear to their accuracy.

The Judge Advocate further stated, that, at the opening of the Court, this morning, he had submitted to the counsel for the accused, the interrogatories to be propounded to Mr. Monroe, for the purpose of having the cross interrogatories annexed thereto, and that it was important to have the same completed, that they might be transmitted without delay; the counsel for the accused replied that he had been unable to complete the same, but would have it done by the opening of the Court in the morning.

Captain Porter then submitted to the Court the following paper:

Captain Porter having been this day, after the meeting of the Court, served by the Judge Advocate with a copy of his interrogatories to Mr. Monroe, to which he perceives, is annexed the original correspondence, alluded to in the call made upon Capt. Porter by the Judge Advocate yesterday; that is, the original letters of Capt. Porter, of the 10th and 12th of March last, and the rough draught of Mr. Monroe's answer, of the 12th, which dispenses Capt. Porter from any delicacy in saying that he admits the authenticity of the said letters; but being still uninformed of the purpose intended by the introduction of the same, reserves all proper objections to the relevancy and admission of the same as evidence, when the same shall be offered as such evidence.

The Court having continued in session until near three o'clock, and no witness having appeared, the Court adjourned till 10 o'clock, to-morrow morning.

FRIDAY, JULY 22D.

The Court met pursuant to the adjournment of yesterday: present, all the members of the Court, the Judge Advocate, and Captain Porter; the proceedings of yesterday were read.

John Boyle, a witness, being called, and duly sworn, according to law, deposes and says:

Q. Are you a clerk in the Navy Department?

A. I am.

Q. Have you carefully compared the papers, now shewn you, with the originals on file in that Department, and are they exact copies?

A. I assisted in the examination of the papers: all those from Commodore Porter were compared with the originals—those to him were compared with the records in the Department. The originals of these letters were transmitted to Capt. Porter. I believe them to be true copies.

The Judge Advocate then proceeded to read the following documents:

1st. The residue of the letters referred to in the 1st specification of the 2d charge, (marked) 6, 7, 8, 9.

2d. The pamphlet referred to in the 2d specification, (No. 11,) with the letter transmitting the same to the Secretary of the Navy, (10,) the publication of the pamphlet being admitted, the accused submitted to the Court his cross interrogatories, accompanied by a protest. The Judge Advocate stated to the Court, that an assertion was contained in that protest, in the following words: "Having repeatedly called upon the Judge Advocate for some precise specification of the circumstances, wherein the supposed guilt implied by the accusation under the head of the 2d charge consists;" that this assertion contains the first intimation he has ever received of such application. He wished also the opinion of the Court, whether the protest should be transmitted to Mr. Monroe, with the interrogatories. The Court was cleared, and when it was opened, the opinion of the Court was announced, that such protest was not proper to transmit to the witness, but that the same may be annexed to the record, which was accordingly done, and marked (12.)

The reading of the pamphlet continued until half after three o'clock, when the Court adjourned till ten o'clock, to-morrow morning.

SATURDAY, July 23d.

The Court met pursuant to the adjournment of yesterday: present, all the members of the Court, the Judge Advocate, and Captain Porter.

The proceedings of yesterday were read.

The Judge Advocate stated, that the interrogatories and cross interrogatories, submitted yesterday, had been put in the way of going to Mr. Monroe, without delay, accompanied by a letter urging his immediate reply, and pointing out the mode in which the deposition should be authenticated, which letter had been previously submitted to the accused and his counsel.

The reading of the pamphlet was continued and concluded.

The Judge Advocate then proceeded to point out the particulars n which the statement of the proceedings of the Court of Inquiry ras deemed incorrect; and submitted a copy of the original record f the proceedings of the Court of Inquiry, which was compared vith the original record in the presence of the Court—annexed and narked No. 13. The Judge Advocate stated that he would particularly state such variances in writing.

The Judge Advocate then submitted to the Court the National ournal of June 16th, 1825, containing a publication which Captain 'orter admitted to be his, under date of June 15th, 1825, annexed nd marked No. 14.

The Court then adjourned till ten o'clock on Monday morning.

MONDAY, JULY 25TH, 1825.

The Court met pursuant to the adjournment of Saturday: present, all the members of the Court, the Judge Advocate, and Capt. Porter. The proceedings of Saturday were read. The Judge Advocate stated that he had received no answer from Mr. Monroe, but expected to have it in the course of the day. The Judge Advocate proceeded to read his note of all the variances which he had discovered between the original record and the proceedings of the Court of Inquiry as published by Capt. Porter, which was annexed and marked (15.) A paper was read by the Judge Advocate, containing a statement of certain facts, agreed to by both sides, dispensing with the attendance of witnesses to establish them, which was also annexed and marked (16.)

William W. Seaton, Esq. being duly sworn according to law, deposes and says:

Q. Are you one of the editors of the National Intelligencer?

A. Yes.

Q. Is the paper now shewn you, of March 30th, 1825, one of the numbers of that paper from your office?

A. Yes.

Q. From whom were the official documents therein printed procured, purporting to be from the Secretary of the Navy to Commodore Porter, and from Commodore Porter to the Secretary of the Navy, being four in number?

A. The shortest and most acceptable way of answering the question, will be to read a correspondence between the Secretary of he Navy and ourselves upon this subject, which will shew what nswer I am prepared and willing to give.

[The Court was cleared, and decided that it would accede to the request of the witness, and hear the letters read, to which he had referred, and being opened, this decision was announced.]

The letters referred to were then read, annexed, and marked 17, 18, and 19.

I am not willing for the reasons stated in the letters read, to give ny other answer than that which we gave to the Secretary of the

Navy. The President of the Court having directed the Court to be cleared, the accused, by his counsel, stated that perhaps the difficulty might be obviated, and read and submitted to the Court the following paper:

Captain Porter, having heard the evidence of Mr. Seaton, and the correspondence between Messrs. Gales and Seaton and the Secretary of the Navy, as to the author of the publication of a certain correspondence between the Secretary of the Navy and Captain Porter, in the National Intelligencer of the 30th March last, and perceiving that the witness, as editor of a public Journal, has claimed a privilege, as well before this Court, as in his correspondence with the Secretary of the Navy, to withhold the name of the author of any publication, not impeached of falsehood, and that the Court is about to deliberate upon the objection of the witness to disclose the author of the publication in question; Captain Porter has no hesitation to admit now, as he would have avowed to the Secretary of the Navy, if he had pleased to have directed his inquiries to Captain Porter, instead of the Printers, that he *did* communicate and cause to be published in the Intelligencer of the 30th March last, the correspondence between himself and the Secretary of the Navy, which that paper purports to contain.

The Judge Advocate then submitted to the Court the National Intelligencer, of March 30th, 1825, containing certain correspondence between the Secretary of the Navy and Capt. Porter, anne[xed] and marked (20.)

Peter Force, a witness, being duly sworn according to law, deposes and says:

Q. Are you the editor of the National Journal?

A. Yes.

Q. Look at a communication in your paper of June 16th, 1825. From whom did you receive that, and when?

A. I received the note and the accompanying documents from Commodore Porter, on the day of the date of it, June 15th, 1825.

Q. Did any, and what conversation take place between yourself and Commodore Porter, in relation to the letter dated June 14th, 1825?

A. (Commodore Porter having, on a suggestion of the witness, absolved him from all obligation of secrecy,) I read the letter in the presence of Commodore Porter, and perceiving that, as I understood it, Com. Porter attributed an anonymous communication which had appeared in the Journal of the 13th, to the Secretary of the Navy; I informed Commodore Porter that it was not from the Secretary of the Navy, and also told him I was authorized by the author of the communication to inform him by whom it was written, when properly requested so to do. He replied by declining to hear by whom it was written. This took place on the 15th June, when I received the communication, the day before it was published in the newspaper. At the same time, I mentioned to Commodore Porter that the anonymous communication was not by the Secretary of the

Navy ; he remarked, I think the similarity of the language in the letter from him of the 13th June, (one of those in that communication,) with the anonymous note published in the Journal, was sufficient to warrant the opinion he had formed.

Cross Examined on the part of the Accused.

Q. When you remarked, in reference to my letter to the Secretary of the Navy of the 14th June, that I was mistaken in supposing that the Secretary was the author of the anonymous note referred to, did I not point out to you the striking resemblance and correspondence between the date and the language of that note, and the Secretary's letter of the 13th June ?

A. I am under the impression that Commodore Porter referred to it, but cannot recollect whether he pointed it out.

Q. Did you not express yourself as struck with these resemblances, in so much that if you had not known the real author of the anonymous note, you might have drawn the same conclusion ?

A. No. I think I expressed no opinion of the kind ; I think I observed there was a resemblance.

Q. Did I not remark to you, that whether the Secretary did or did not actually write or communicate the anonymous note, circumstances justified me in concluding, at the time I writ my letter of the 14th June, that the note had come from an official source, and had been approved or countenanced by him ?

A. I think Commodore Porter did make such a remark in substance.

The Judge Advocate stated that he had now submitted to the Court, all the testimony which he proposed laying before it at the present stage of the proceedings, with the exception of Mr. Monroe's deposition. Captain Porter intimated his readiness to proceed with the evidence on his part.

John Simpson, a witness, produced on behalf of the accused, deposes and says :

Q. (By the accused.) Were you employed by me, during the sitting of the late Court of Inquiry in my case, to copy from the Judge Advocate's record, the proceedings of the Court for my use ?

A. I was.

Q. Were you furnished by the Judge Advocate, with his minutes of the proceedings, for the purpose of being copied for me ?

A. I was.

Q. Were the copies which you did make of those minutes, made carefully and accurately, and word for word with the original as it then stood ; except the statement given in the first day's proceedings, of what I said in answer to the question, whether I had any objection to offer against either of the members of the Court ?

A. The copy I made was a true copy.

Q. Were you present on the first day of the Court when I stated my objection, and did you take particular notice of my words, and accurately recollect them ?

A. I do not now recollect them. I took particular notice, and recollected them for some days after.

Q. Examine the two statements of the terms of my said objection. First, as it appears at P. 5, of the copy of the original record now shown you; and, secondly, as corrected at P. 22 of the same document; and say, according to the best of your recollection now, and when the subject was newer and fresher in your memory, which of these is the true statement of the terms in which I originally submitted that objection?

[The witness is here shown the copy of the original record, produced in evidence by the Judge Advocate on Saturday and those passages of the same, wherein the original minutes of Capt. Porter's objection is entered, in the proceedings of Monday, May 2d, and corrected in those of the Thursday following, are designated for the examination of the witness.]

A. I have a recollection of this. The last is the correct one.

Q. Examine the nine sheets of paper now shown you, and say whether they be the original manuscript, in your own hand-writing, of the copy which you took, as you have before stated, from the minutes furnished you by the Judge Advocate?

A. They are the original manuscript of my copy, and are an exact copy of the notes furnished me by the Judge Advocate. (They extend as far as the end of the first paragraph on P. 27 of the pamphlet.)

Cross examined by the Judge Advocate.

Q. Can you say that no error or omission was by accident made by you in your copying?

A. I believe there was not any.

Q. Was the copy compared with the original, and with whose assistance?

A. I read it over myself.

Q. Look at P. 23 of the pamphlet, and see whether the words "holds the highest commission which"—were not omitted in copying?

A. I do not think I omitted any thing in copying.

Q. Look at the paper handed you, and see if it be the original paper from which you took that part of your copy? (The Judge Advocate here exhibited to the witness his original note of this part of the proceedings of the Court of Inquiry.)

A. I cannot be positive

Q. Were the papers, submitted to the Court of Inquiry, by Capt. Porter, in your hand-writing, exact copies of the original?

A. They were.

Q. Did you copy the latter part of the paper marked B; I mean the copy from which the pamphlet was published?

A. I think I copied it; I am not certain.

Q. Was the copy furnished Capt. Porter of that paper, an exact transcript of the original?

A. Yes.

Q. Did Capt. Porter, to your knowledge, ever compare or assist in comparing your copy with the original from which it was taken?

A. No.

Q. Do you know whether the original notes were read to the Court of Inquiry, as the record of its proceedings, or a fair transcript of the same?

A. I do not think the original notes were.

Q. Do you know whether the record read, was ever rectified publicly, as for instance, at the request of a witness?

A. I do not.

Q. Was not a letter in your hand-writing, transmitted to the Court of Inquiry, found to be dated March 6th, instead of May 6th, by your mistake?

A. Yes.

Q. Have you any more confidence in the accuracy of the copies which you have now sworn to, than you had in that before the error was pointed out?

A. I have more confidence.

Q. Did you conceive it possible that any inaccuracy had been committed on that occasion by you in copying that letter, before Capt. Porter informed you of the mistake in date, and did you not request to see the paper in your own hand-writing, before you would believe that it could have been made?

A. I did not know that I had committed the mistake until I saw it.

Re-examined by Captain Porter.

Q. Did I frequently enjoin upon you, whilst engaged in copying the minutes of the Court of Inquiry, to be very particular and accurate; and did you take particular pains to be so?

A. I did take particular pains to be so. Captain Porter saw I was very particular, and I do not know that he made any such request of me.

Q. (By a member of the Court.) Are you much in the habit of copying from M. S., and were the notes written in a fair, legible hand?

A. I have copied a good deal, and the notes from which I copied, were fair and legible.

Q. (Captain Porter.) Look at the sheet of paper now shown you, and say whether it be the same, or like the hand-writing of the minutes from which you copied?

A. I think all I copied, was in that hand writing; some came after, which I did not copy, in a different hand.

It is admitted, that the paper shown, was in the hand-writing of Mr. Harrison, in whose hand also, the original part of the original record is?

Q. Was your transcript of my letter, in which the mistake of the date occurred, as above mentioned, taken from my rough

draught, and are my rough draughts generally written in a fair hand, or in a very hurried, rough way?

A. I do not recollect particularly; it was very easily read. I read Commodore Porter's rough draughts very easily. I was Captain Porter's clerk about fifteen months.

The Court adjourned till 10 o'clock, to-morrow morning.

TUESDAY, JULY 26TH.

The Court met pursuant to adjournment of yesterday: present all the members of the Court, the Judge Advocate, and Captain Porter. The proceedings of yesterday were read.

John T. Ritchie, a Lieutenant in the Navy of the United States, a witness, produced on the part of the accused, being duly sworn according to law, and examined by Captain Porter, deposes and says:

Q. Examine the four sheets of paper now shown you, and say in whose hand-writing the same are?

[The witness is here shown the manuscript copy, from which was printed what is contained in the pamphlet, given in evidence, under the second and third and fourth specifications of the second charge, from where the manuscript copy proved by John Simpson yesterday, ended on page twenty-seven, to the end of the paragraph ending with the words "at 11 o'clock," on page thirty-two of the same pamphlet.]

A. The first three are in the hand-writing of Mr. Sarazau; the last sheet is in the hand writing of Mrs. Simpson, wife of Mr. John Simpson, with the exception of a few words in the latter part of it, (*of which I have no knowledge;*)—the word which in the fourth line from the bottom, and the word *being* in the third line from the bottom; these words are in the hand-writing of Captain Porter.

Q. What was the character, and in whose hand-writing was the original, from which those sheets were copied?

A. They were part of the proceedings of the Court of Inquiry, and in the hand-writing of the Judge Advocate.

Q. Did you carefully and accurately compare these four sheets with such originals, and are they exact copies?

Please state the manner in which you compared the copy and the originals; and whether you are certain of the accuracy of the copy?

A. I think I read them over, the first three sheets two several times. First I read the copy with another person, (my wife) who was looking over the original, and afterwards read over the original, she having the copy. I discovered no error throughout. The last sheets I examined in the same manner, with Mrs. Simpson.

Q. What has become of Mr. Sarazau; has he left this part of the country?

A. I believe he is in the city of Washington, but I have not seen

him myself since soon after this thing occurred. Philadelphia is his home, and he may possibly have gone there.

Cross Examined on the part of the Judge Advocate.

Q. Do you know whether Captain Porter ever saw the original papers, from which the copy was taken?

A. I do not.

Q. Would you now recognize any one of these papers as such original?

A. I think not.

The Judge Advocate then read a sentence from what he stated to be the original minute, furnished after the proceedings of Monday, May 9th, and exhibited the paper to the witness.

Q. Can you not recollect this paper to have been the paper from which the proceedings of that day were copied, from the sealing wax dropped on it; and is the second paragraph in the one an exact copy of the other?

A. I cannot identify the paper; on a comparison, there appears an entire line omitted.

Martin King, a witness produced on the part of the accused, being duly sworn according to law, and by him interrogated, deposes as follows:

Q. Were you at the time of the printing and publishing of my pamphlet, (now shown you,) and are you still foreman in the Printing-office of Davis & Force, when that pamphlet was printed?

[The witness is here shown the pamphlet formerly given in evidence by the Judge Advocate.]

A. I was then and am now.

Q. Examine the thirteen sheets of paper, writing now shown you; and say whether they be the identical copy from which that pamphlet, or so much of it as is composed of that copy, was printed?

[The witness is here shown the same nine sheets of copy mentioned in the evidence of John Simpson, and the four sheets mentioned in the evidence of Lieutenant John T. Ritchie.]

A. I believe them to be the same.

Q. Were the proof sheets of the pamphlet, diligently and carefully compared with the copy, and every typographical error that was detected, carefully corrected; and was this comparison made both by the proof reader in the Printing-office, and by myself?

A. They were; I read them over twice, and Captain Porter read them over once.

Question by the Judge Advocate. Was all the copy from which that pamphlet was published, with the notes—marks to the different documents therein contained, communicated by Captain Porter for the purpose of printing that pamphlet, and was he satisfied with its accuary?

A. No complaints were made by him of any want of accuracy—

I saw one or two noticed in the public prints, such as *clothes for colours*, and perhaps one or two others of the same kind.

The accused then submitted to the Court, a letter from R. S. Coxe, the Judge Advocate, dated May 21st, 1825, which was read, annexed to the record, and marked (21.)

The Judge Advocate stated that he wished it to appear on the record, to what application that letter was an answer, and that he was desirous of exhibiting before the Court, the same statement in regard to it, which he had before submitted to Captain Porter, annexed and marked (22.)

William W. Seaton called by the accused. A question was proposed to Mr. Seaton on the part of Captain Porter. The Judge Advocate stated that he felt great reluctance to interpose any difficulty in the way of any investigation which the accused might deem it important to pursue; but that the question now stated, and the inquiry designed to be made, appeared to him so wholly foreign to the inquiry in which the Court was engaged, that he felt it incumbent upon him to take the opinion of the Court upon the subject. The object of the accused had been communicated to him, but he wished it to be submitted in writing to the Court, to enable it to decide upon the point with accuracy. The reasons having been stated, the Court was cleared, and after having maturely considered the same, the Court is of opinion that the question be put—which decision was accordingly announced.

Mr. Seaton was then called.

Q. (By Captain Porter.) Look upon the 3d paragraph of the 3d page of the National Intelligencer, under date of May 5th, 1825, in the words "We are informed that we did not exactly understand, and of course did not accurately state, the ground on which the exception taken by Commodore PORTER to the Court of Inquiry now sitting in this city, was overruled by the Secretary of the Navy. The Letter of the Secretary to the Court stated, that, as far as the Secretary could be called upon for an opinion on that question, Comm. P. ought to have made his application to him at an earlier day, but that the opinion of the Department, as to the legality of the manner in which the Court was composed, had been expressed in the very act which created and convened the Court, and that nothing was discovered in the argument of Comm. P to change the opinion. The act of the Department was placed, therefore, on the ground of its legality, by the Secretary, and not on the ground of time in taking the exception, that circumstance being incidentally introduced into his letter. Our information was obtained in current conversation, and was inaccurate only from not being as fully stated as it might have been," and say by whose request that paragraph was published, and by whom it was communicated, in terms or in substance?

A. I cannot answer the question with propriety. If it be not absolutely essential for the purposes of justice, I should prefer, for the reasons stated yesterday, not to give any other answer. I have

an additional reason in this case for declining, because the communication was expressly a private and confidential one.

The Court was cleared to deliberate upon the course to be pursued.

Upon the opening of the Court, it was announced, that the Court is of opinion, that although from a wish to afford every facility to the accused, in pursuing any investigation which he may deem important, it did permit the question proposed to be propounded, and would have permitted the witness to answer it;—yet, when the Court is called upon to determine whether it will exercise the power which the law confers of coercing the witness to answer the question, assumes a more serious aspect; and the Court, after mature consideration, is of opinion, that the question proposed, is one which cannot, in any material degree, affect the case of the accused, and therefore will not compel the witness to reply to it.

The counsel for the accused then prepared and presented another question, which the Judge Advocate stated was liable to the same objection as before. The Court was cleared, to determine whether or not, it should be propounded to the witness. The question is as follows:

Q. Did the paragraph in question, proceed directly or indirectly from the Secretary of the Navy; and what agency had he, if any, in preparing it for the press, and causing its publication. After having deliberated upon the same, the Court determined that the question should not be put.

The Court adjourned till ten o'clock, to-morrow morning.

WEDNESDAY, JULY 27TH, 1825.

The Court met pursuant to the adjournment of yesterday: present, all the members of the Court, the Judge Advocate, and Captain Porter. The minutes of the proceedings of yesterday were read.

The counsel for the accused proposed reading a paper to the Court; the President of the Court announced to him that the opinion of the Court yesterday was, that all communications be submitted to it through the Judge Advocate.

The counsel declining to pursue that course, the Court was cleared, and when it was opened, it was announced that the Court has decided that the following rule of practice be adopted.

The accused may submit his communications in writing to the Court; the same shall then be publicly read by the Judge Advocate, the Court reserving the right of admitting and receiving the papers, or any part thereof.

The counsel for the accused then submitted a petition to the Court, calling upon the Court to have the Secretary of the Navy summoned to attend as a witness, or that interrogatories be transmitted to him, stating his reasons for the same. The Judge Advocate observed, that the uniform practice had been, both in this case and others, for the accused to hand him the names of such witnesses as

been made to him for such sum... had it been, it should have been afforded the accused ... tion; and if now made, should be granted at this time.

The Court was cleared, and when it was opened, it was announced that the paper will not be received, and the Judge Advocate is directed to return the same to the accused, which was accordingly done.

The Judge Advocate received a letter from Mr. Seaton, with a request that the same be laid before the Court, which was accordingly done, annexed, and marked (22.)

The counsel for the accused, stated that he had nothing to submit to the Court at this time.

Gustavus Harrison, a witness produced by the Judge Advocate, being duly sworn according to law, and by him examined, deposed as follows:

Q. Were you employed by me, during the sitting of the Court of Inquiry in the case of Captain D. Porter, to copy the proceedings of the Court from my minutes?

A. Yes.

Q. Look at the original record now shewn you, and say whether you copied the proceedings of the said Court, excepting those of the last day?

A. It is all in my hand-writing, with the exception of some corrections, and the proceedings of the last day.

Q. At what time were you furnished with the minutes from which you took the copy; when did you return me your copy, and when were those corrections made?

A. I generally received them about four or five o'clock in the afternoon, after the adjournment of the Court, I copied them and returned them the next morning, before the meeting of the Court, when then examined them, and the corrections were made.

Q. From the time the copy was made by you until after the corrections were made, was it in the power of any one to have taken a copy from either of those papers, and do you believe any such copy was at any time taken?

A. I am positive that it was not.

The accused not being prepared to cross examine the witness at this time, the Court adjourned till ten o'clock, to-morrow morning.

THURSDAY, JULY 28TH.

The Court met pursuant to the adjournment of yesterday: present, all the members of the Court, the Judge Advocate, and Captain Porter. The minutes of the proceedings of yesterday were read.

Mr. Harrison being again called by the accused, was by him interrogated as follows:

2nd. Copy of a letter from same to the same, dated Washington, Oct. 19th 1824. (45.)

Captain Porter then objected to the reading of these letters, or more of this kind, on the ground that they had no relation to or connexion with the charges or specifications; that he was prepared to meet any other charge which either now, or at any future time, might be preferred for any part of his conduct, but that he was now without his counsel, and must of himself, object to the production of this testimony.

The Judge Advocate remarked, that the letters were offered as the answers to letters read on Saturday; or, as letters to which some of those were answers; that a part of the correspondence having been read, it seemed proper to submit the residue of it.

The Court being cleared, proceeded to deliberate upon the question, and after some time, it was opened, when the resolution of the Court was announced, that the papers should be read, but that the Court would adjourn, until to-morrow, that the counsel for the accused might be present at the reading of the same. The Court adjourned till ten o'clock, to-morrow morning,

TUESDAY, August 2d, 1825.

The Court met pursuant to the adjournment of yesterday: present, all the members of the Court, (excepting Capt. Tingey,) the Judge Advocate, and Captain Porter. Capt. Tingey transmitted an order from the Secretary of the Navy, which occasioned his temporary absence.

The proceedings of yesterday were read.

Capt. Porter, by his counsel, then submitted some objections to the letters which it was proposed to read, and the Court was cleared to deliberate on the same.

After the Court was cleared, Capt. Tingey appeared, and resumed his seat; on the opening of the Court, the following proceedings were announced.

The Judge Advocate stated to the Court, that the papers which he had proposed to submit, appeared to him to be intimately connected with what were read on Saturday, and equally relevant to the case with them: but that he was not particularly desirous to press the evidence before the Court. The Court having maturely considered the same, is of opinion, that much, if not all, of the evidence submitted by the accused on Saturday, is wholly irrelevant to the subject matter before it; but, it being submitted by him, and not objected to by the Judge Advocate, it was received without hesitation: As, however, it is the opinion of the Court that it is irrelevant, it is not deemed necessary or proper to pursue that part of the investigation further; and, as it is not objected to by the Judge Advocate, and appears to be the desire of the accused, the Court will not receive or annex to the record, any of the five papers to which the objection extends.

The counsel for the accused then submitted to the Court sundry

he wished to be officially summoned; that such request had been uniformly and promptly complied with. That no application had been made to him for such summons for the Secretary of the Navy; had it been, it should have been afforded the accused without hesitation; and if now made, should be granted at this time.

The Court was cleared, and when it was opened, it was announced that the paper will not be received, and the Judge Advocate is directed to return the same to the accused, which was accordingly done.

The Judge Advocate received a letter from Mr. Seaton, with a request that the same be laid before the Court, which was accordingly done, annexed, and marked (22.)

The counsel for the accused, stated that he had nothing to submit to the Court at this time.

Gustavus Harrison, a witness produced by the Judge Advocate, being duly sworn according to law, and by him examined, deposed as follows:

Q. Were you employed by me, during the sitting of the Court of Inquiry in the case of Captain D. Porter, to copy the proceedings of the Court from my minutes?

A. Yes.

Q. Look at the original record now shewn you, and say whether you copied the proceedings of the said Court, excepting those of the last day?

A. It is all in my hand-writing, with the exception of some corrections, and the proceedings of the last day.

Q. At what time were you furnished with the minutes from which you took the copy; when did you return me your copy, and when were those corrections made?

A. I generally received them about four or five o'clock in the afternoon, after the adjournment of the Court, I copied them and returned them the next morning, before the meeting of the Court, we then examined them, and the corrections were made.

Q. From the time the copy was made by you until after the corrections were made, was it in the power of any one to have taken a copy from either of those papers, and do you believe any such copy was at any time taken?

A. I am positive that it was not.

The accused not being prepared to cross examine the witness at this time, the Court adjourned till ten o'clock, to-morrow morning.

THURSDAY, July 28th.

The Court met pursuant to the adjournment of yesterday: present, all the members of the Court, the Judge Advocate, and Captain Porter. The minutes of the proceedings of yesterday were read.

Mr. Harrison being again called by the accused, was by him interrogated as follows:

The minutes of the proceedings of yesterday were read. Capt. Porter stated to the Court, that Mr. Jones (his counsel) was engaged in the necessary arrangements and business of this case, and that he had nothing at this time to lay before the Court; whereupon,

The Court adjourned till ten o'clock, to-morrow morning.

SATURDAY, JULY 30TH, 1825.

The Court met pursuant to the adjournment of yesterday: present, all the members of the Court, (excepting Captain Biddle,) the Judge Advocate, and Captain Porter.

The President announced to the Court that, although Capt. Biddle was much better than he was yesterday, he still continued too much indisposed to resume his seat.

The Judge Advocate then submitted and read to the Court the following documents; some of which were presented at the request of Captain Porter, the residue by the Judge Advocate, to complete the chain of the correspondence.

1st. Copy of letter from Smith Thompson, Secretary of the Navy, to Com. Porter, dated Navy Department, August 19th, 1823. (30.)

2nd. Copy of letter from Samuel L. Southard, Secretary of the Navy, to Commodore Porter, dated Navy Department, September 29th, 1823. (31.)

3rd. Extract of letter from the Secretary of the Navy, dated September 30th, 1823. (32.)

4th. Copy of letter from I. Chauncey, acting Secretary of Navy, to Commodore Porter, dated Navy Department, October 28th, 1823. (33.)

5th. Extract of letter from Commodore Porter to the Secretary of the Navy, dated November 19th, 1823. (34.)

6th. Extract of Instructions from Secretary of the Navy, to Com. Porter, dated December, 1823. (35.)

7th. Copy of letter from Samuel L. Southard, Secretary of Navy, to Commodore Porter, dated Navy Department, May 17th, 1824. (36.)

8th. Copy of letter from D. Porter to Secretary of the Navy, dated Sea Gull, Matanzas, May 28th, 1824. (37.)

9th. Copy of letter from Samuel L. Southard, Secretary of the Navy, to Commodore Porter, dated Navy Department, May 31st, 1824. (38.)

10th. Copy of letter from Commodore D. Porter to Secretary of the Navy, dated Washington, June 25th, 1824. (39.)

11th. Copy of letter from Charles Hay, for Secretary of the Navy to Commodore Porter, dated Navy Department, June 29th, 1824. (40.)

12th. Copy of letter from Commodore Porter to the Secretary of the Navy, dated Washington, August 11th, 1824. (41.)

13th. Extract of a letter from Charles Hay, (handed in by Commodore Porter) to Commodore Porter, dated George Town, D. C. September 11th, 1824. (42.)

14. Copy of letter from Samuel L. Southard, Secretary of the Navy, to Commodore Porter, dated Navy Department, October 14th, 1824. (43.)

It was also agreed, that the official reports of Lieutenant Sloat and the accompanying documents and correspondence printed in the pamphlet, from page 100 to the end of that publication, be submitted to the Court as if given in evidence on this trial.

It is also agreed, that the following note, published in the National Journal of June 14th, 1825, being the anonymous publication or note referred to in Captain Porter's letter to the Secretary of the Navy, of June 14th, 1825, and in the testimony of Peter Force, and which, it is admitted, was communicated to the Editor of the said National Journal by R. S. Coxe, Esq. Judge Advocate to the Court of Inquiry therein mentioned, with authority to communicate his name as the author of it, when applied to for that purpose; be annexed to the record, as evidence in this case.

To the Editor of the National Journal.

It appears necessary to apprise the public, that the recent publication of Commodore Porter, on the subject of the proceedings of the Court of Inquiry, in relation to the affair at Faxardo, presents so inaccurate and imperfect a view of that matter, that it will, in due time, receive proper attention. The record of the Court and statement of the facts, transmitted to the Executive, not having yet been made public, and it being understood, that the business has not been terminated, furnish sufficient reasons for postponing to a more suitable period, the rectification of the errors, and the supplying the deficiencies, which exist in the pamphlet referred to.

June 13th, 1825.

The reading of the documents having been completed, the Court adjourned until 2 o'clock on Monday.

MONDAY, August 1st, 1825.

The Court met pursuant to the adjournment of Saturday: present, all the members of the Court, the Judge Advocate and Captain Porter. The minutes of the proceedings of Saturday were read.

Captain Porter stated, that his counsel not having yet completed the defence, which he purposed to submit to the Court, requested the further indulgence of the Court, until to-morrow at 12 o'clock, by which time he would endeavour to be prepared.

The Judge Advocate then read and submitted to the Court, certain documents from the Navy Department.

1st. Copy of a letter from Commodore Porter to Secretary of Navy, dated Washington, October 12th, 1824. (44.)

2nd. Copy of a letter from same to the same, dated Washington, Oct. 19th 1824. (45.)

Captain Porter then objected to the reading of these letters, or more of this kind, on the ground that they had no relation to or connexion with the charges or specifications; that he was prepared to meet any other charge which either now, or at any future time, might be preferred for any part of his conduct, but that he was now without his counsel, and must of himself, object to the production of this testimony.

The Judge Advocate remarked, that the letters were offered as the answers to letters read on Saturday; or, as letters to which some of those were answers; that a part of the correspondence having been read, it seemed proper to submit the residue of it.

The Court being cleared, proceeded to deliberate upon the question, and after some time, it was opened, when the resolution of the Court was announced, that the papers should be read, but that the Court would adjourn, until to-morrow, that the counsel for the accused might be present at the reading of the same. The Court adjourned till ten o'clock, to-morrow morning,

TUESDAY, AUGUST 2D, 1825.

The Court met pursuant to the adjournment of yesterday: present, all the members of the Court, (excepting Capt. Tingey,) the Judge Advocate, and Captain Porter. Capt. Tingey transmitted an order from the Secretary of the Navy, which occasioned his temporary absence.

The proceedings of yesterday were read.

Capt. Porter, by his counsel, then submitted some objections to the letters which it was proposed to read, and the Court was cleared to deliberate on the same.

After the Court was cleared, Capt. Tingey appeared, and resumed his seat; on the opening of the Court, the following proceedings were announced.

The Judge Advocate stated to the Court, that the papers which he had proposed to submit, appeared to him to be intimately connected with what were read on Saturday, and equally relevant to the case with them: but that he was not particularly desirous to press the evidence before the Court. The Court having maturely considered the same, is of opinion, that much, if not all, of the evidence submitted by the accused on Saturday, is wholly irrelevant to the subject matter before it; but, it being submitted by him, and not objected to by the Judge Advocate, it was received without hesitation: As, however, it is the opinion of the Court that it is irrelevant, it is not deemed necessary or proper to pursue that part of the investigation further; and, as it is not objected to by the Judge Advocate, and appears to be the desire of the accused, the Court will not receive or annex to the record, any of the five papers to which the objection extends.

The counsel for the accused then submitted to the Court sundry

documents of an official nature. The Court having been cleared to deliberate upon the papers submitted, and having considered the same, is of opinion that the evidence is not admissible before the Court, being wholly irrelevant to the charges and specifications.—The counsel for the accused having been understood to intimate that the object intended by offering the documents was to illustrate the construction which the Government had given, to the instructions from the Department; the Court conceiving this to constitute an insufficient reason for admitting the same, as evidence, in the cause; it has therefore decided not to receive the testimony offered. It is not, however, designed to preclude the accused from resorting to any documents of a public and official kind, which he may conceive to furnish him with sources of argument, in his defence.

The Court being opened, the foregoing proceedings were announced.

The counsel of the accused having stated that he had no other testimony to submit, the evidence was considered as closed. He was then asked when he should be prepared with the defence; he replied by stating that he might possibly be prepared by Thursday, but could not promise positively to have it ready before Friday.

The Court then adjourned till to-morrow at 10 o'clock.

WEDNESDAY, August 3d, 1825.

The Court met pursuant to the adjournment of yesterday: present, all the members of the Court, (excepting Captain Ridgely,) the Judge Advocate, and Captain Porter.

The minutes of the proceedings of yesterday were read.

Capt. Ridgely was prevented by indisposition from attending the sitting of the Court to-day. The Court adjourned till ten o'clock, to-morrow morning.

THURSDAY, August 4th, 1825.

The Court met pursuant to the adjournment of yesterday: present, all the members of the Court, the Judge Advocate, and Captain Porter. The minutes of the proceedings of yesterday were read.

Captain Porter having intimated that his counsel would be prepared by eleven o'clock to-morrow, the Court adjourned till that hour.

FRIDAY, August 5th, 1825.

The Court met pursuant to the adjournment of yesterday: present, all the members of the Court, the Judge Advocate, and Captain Porter. The minutes of the proceedings of yesterday were read. The Counsel for the accused, having obtained permission of the Court, proceeded to deliver the defence. Before concluding it, at his request, the Court adjourned till to-morrow morning, at eleven o'clock.

SATURDAY, August 6th.

The Court met pursuant to the adjournment of yesterday: present, all the members of the Court, the Judge Advocate, and Capt. Porter. The minutes of the proceedings of yesterday were read. The delivery of the defence was resumed, and when it was concluded, the counsel having undertaken to hand in the defence on Monday morning, that the same might be annexed to the record, the Court adjourned till Monday morning, at 10 o'clock.

MONDAY, August 8th.

The Court met pursuant to the adjournment of Saturday: present, all the members of the Court and the Judge Advocate. The minutes of the proceedings of Saturday were read.

It was announced to the Court that the defence was not ready to be submitted to the Court to day, but that it should be ready by to-morrow: It was determined by the Court to go on with the business before it with closed doors. The room was accordingly cleared, and the proceedings of the Court were read over. The reading continued until after three o'clock, when the Court adjourned till ten o'clock, to-morrow morning.

TUESDAY, August 9th.

The Court met pursuant to the adjournment of yesterday: present, all the members of the Court and the Judge Advocate. The room being cleared, the residue of the proceedings was read.

The defence not having been transmitted, the Court came to the following resolution.

Resolved by the Court, that this Court has felt and exhibited a disposition during the progress of this trial to allow every indulgence to the accused which the most cautious regard to his feelings and wishes could dictate: that with this disposition, delays, and a course of practice, have been submitted to, in which the Court has reluctantly acquiesced: that arguments, instead of being prepared when offered to the Court, in such a state as to be annexed to the record, have, after an ample allowance of time, been delivered orally, and an equal length of time afterwards consumed in committing the same to writing. That in regard to the defence, after having waited for an unusual period of time, it was in fact delivered to the Court orally, and as a written document it has not been presented to the Court this the third day after its public delivery; the Court feels constrained to notice this conduct which it cannot pass over without an expression of its disapprobation, and has determined that unless the paper is ready by the meeting of the Court to-morrow, the Court will proceed to judgment without it. And it is requested of the Judge Advocate that a copy of the foregoing resolution be transmitted to the accused this afternoon.

he wished to be officially summoned; that such request had been uniformly and promptly complied with. That no application had been made to him for such summons for the Secretary of the Navy; had it been, it should have been afforded the accused without hesitation; and if now made, should be granted at this time.

The Court was cleared, and when it was opened, it was announced that the paper will not be received, and the Judge Advocate is directed to return the same to the accused, which was accordingly done.

The Judge Advocate received a letter from Mr. Seaton, with a request that the same be laid before the Court, which was accordingly done, annexed, and marked (22.)

The counsel for the accused, stated that he had nothing to submit to the Court at this time.

Gustavus Harrison, a witness produced by the Judge Advocate, being duly sworn according to law, and by him examined, deposed as follows:

Q. Were you employed by me, during the sitting of the Court of Inquiry in the case of Captain D. Porter, to copy the proceedings of the Court from my minutes?

A. Yes.

Q. Look at the original record now shewn you, and say whether you copied the proceedings of the said Court, excepting those of the last day?

A. It is all in my hand-writing, with the exception of some corrections, and the proceedings of the last day.

Q. At what time were you furnished with the minutes from which you took the copy; when did you return me your copy, and when were those corrections made?

A. I generally received them about four or five o'clock in the afternoon, after the adjournment of the Court, I copied them and returned them the next morning, before the meeting of the Court, we then examined them, and the corrections were made.

Q. From the time the copy was made by you until after the corrections were made, was it in the power of any one to have taken a copy from either of those papers, and do you believe any such copy was at any time taken?

A. I am positive that it was not.

The accused not being prepared to cross examine the witness at this time, the Court adjourned till ten o'clock, to-morrow morning.

THURSDAY, JULY 28TH.

The Court met pursuant to the adjournment of yesterday: present, all the members of the Court, the Judge Advocate, and Captain Porter. The minutes of the proceedings of yesterday were read.

Mr. Harrison being again called by the accused, was by him interrogated as follows:

Q. Examine the several interlineations, and erasures, in the record proved by you yesterday as your transcript from the original minutes of the Judge Advocate, at pages 7, 8, 21, 25, 26, 31, 32, 38, 40, the adjournment at page 38, and the note at the bottom of the page 41, and say by whom they appear to have been made?

A. The interlineations appear to be in the hand-writing of Mr. Coxe; I cannot say whether the erasures were made by him or by myself, the adjournment at p. 38, is in my own hand writing, the note at p. 41, is in the hand-writing of Mr. Coxe, the (7) in page 41, is I believe, Mr. Coxe's.

Q. Can you recollect, with certainty, whether the original minutes, when given to you to copy, had in them the words and passages which now appear interlined, erased and added, at the pages above mentioned of the said transcript?

A. I do not know that I can with certainty.

Q. From your recollection of the general accuracy or inaccuracy of your transcript, as originally made, can you say that you made the mistakes, which these alterations, now appearing on the face of the transcript, indicate?

A. I cannot say that I made all of them; I know that I made a considerable number.

Q. Refer more particularly to the interlineation at p. 7, and the note at the bottom of p. 41, and say whether you have any recollection of having made those mistakes?

A. I cannot say whether or not it was my omission.

Q. When did you first see that part of the record, giving the last day's proceedings, stated as in the hand-writing of the Judge Advocate; and do you know any thing of the pencilled interlineation in the second paragragh of the same?

A. I do not recollect seeing that part of the proceedings, until it was shewn me yesterday, and I know nothing of that interlineation; all that I recollect is, that, when I called, as usual, for the proceedings of that day, I was informed, by Mr. Coxe, that it was copied by him for the purpose of being transmitted to the Department, or words to that effect: I do not think I saw the proceedings of that day, at all, until I saw it yesterday.

Question by the Judge Advocate.

Q. Have you any recollection of my making, on one or more occasions, so many corrections, in your transcript, that you proposed to send it back with you to make a fair copy? and what passed on that occasion?

A. I do recollect there were so many corrections in one day's proceedings as to induce me to ask to re-copy it. Your reply was, that it was not then time; that you had to carry them out with you to the Court, to read them as the proceedings of the Court.

Question by the part of the accused:

Q. Did you ever make more than one copy of the record?

A. I have no recollection that I ever did; I think I may have made other copies of papers exhibited by Commodore Porter, but I think I never did for the record.

cord the said findings, and it being after four o'clock, adjourned 'till eleven o'clock to-morrow morning.

THURSDAY, AUGUST 11TH, 1825.

The Court met pursuant to the adjournment of yesterday: present, all the members of the Court and the Judge Advocate. The proceedings of yesterday having been read, the Court proceeded to sign this, the record of its proceedings, the finding and sentence.

JAMES BARRON, *President.*
THOS. TINGEY.
JAMES BIDDLE.
CH. G. RIDGELY.
ROBT. TRAILE SPENCE.
J. W. DOWNES.
J. D. HENLEY.
J. D. ELLIOTT.
JAMES RENSHAW.
THOS. BROWN.
CHS. C. B. THOMPSON.
ALEX. S. WADSWORTH.
GEO. W. RODGERS.

RICHARD S. COXE, *Judge Advocate.*

THURSDAY, AUGUST 11TH.

The record of the proceedings in the case of Captain David Porter, having been signed and transmitted to the Department, the Court, by virtue of an order for that purpose, from the Secretary of the Navy, directed to the President, and hereunto annexed and marked A, adjourned to meet to-morrow morning at ten o'clock, at the building on 1st street east, and the corner of Maryland avenue, formerly occupied by the Congress of the United States.

FRIDAY, AUGUST 12TH.

The Court met pursuant to the adjournment of yesterday: present, all the members of the Court, and the Judge Advocate. The Judge Advocate read and submitted to the Court a letter from the Secretary of the Navy, which was annexed and marked B, and the record of the proceedings as transmitted yesterday to the Department, with the paper referred to as a continuance of the Defence of Captain Porter.

The paper having been read, on motions of a member, the Court determined that it will adjourn until ten o'clock to-morrow, and that Captain Porter be informed that the Court will receive the residue of the Defence at that hour.

The Court adjourned 'till to-morrow at ten o'clock.

2nd. Copy of a letter from same to the same, dated Washington, Oct. 19th 1824. (45.)

Captain Porter then objected to the reading of these letters, or more of this kind, on the ground that they had no relation to or connexion with the charges or specifications; that he was prepared to meet any other charge which either now, or at any future time, might be preferred for any part of his conduct, but that he was now without his counsel, and must of himself, object to the production of this testimony.

The Judge Advocate remarked, that the letters were offered as the answers to letters read on Saturday; or, as letters to which some of those were answers; that a part of the correspondence having been read, it seemed proper to submit the residue of it.

The Court being cleared, proceeded to deliberate upon the question, and after some time, it was opened, when the resolution of the Court was announced, that the papers should be read, but that the Court would adjourn, until to-morrow, that the counsel for the accused might be present at the reading of the same. The Court adjourned till ten o'clock, to-morrow morning,

TUESDAY, August 2d, 1825.

The Court met pursuant to the adjournment of yesterday: present, all the members of the Court, (excepting Capt. Tingey,) the Judge Advocate, and Captain Porter. Capt. Tingey transmitted an order from the Secretary of the Navy, which occasioned his temporary absence.

The proceedings of yesterday were read.

Capt. Porter, by his counsel, then submitted some objections to the letters which it was proposed to read, and the Court was cleared to deliberate on the same.

After the Court was cleared, Capt. Tingey appeared, and resumed his seat; on the opening of the Court, the following proceedings were announced.

The Judge Advocate stated to the Court, that the papers which he had proposed to submit, appeared to him to be intimately connected with what were read on Saturday, and equally relevant to the case with them: but that he was not particularly desirous to press the evidence before the Court. The Court having maturely considered the same, is of opinion, that much, if not all, of the evidence submitted by the accused on Saturday, is wholly irrelevant to the subject matter before it; but, it being submitted by him, and not objected to by the Judge Advocate, it was received without hesitation: As, however, it is the opinion of the Court that it is irrelevant, it is not deemed necessary or proper to pursue that part of the investigation further; and, as it is not objected to by the Judge Advocate, and appears to be the desire of the accused, the Court will not receive or annex to the record, any of the five papers to which the objection extends.

The counsel for the accused then submitted to the Court sundry

Notes of the principal heads of argument and authority, in support of the objections taken by the Counsel of Commodore Porter, to the second charge and the specifications of the same.

The Counsel is well aware, how much out of place, before a Court Martial, are the nice and abstruse subtilties, and the merely technical rules, peculiar to some branches of practice in the Courts of Common law. He will, therefore, implicitly follow the advice of a learned civillian, who has made military jurisprudence, and the analagous principles and practice of municipal jurisprudence, as administered in courts of civil and criminal judicature, the subject of an elaborate, practical, and useful essay; and who very prudently and properly recommends to Counsel, engaged in the conduct of a defence before a Court Martial, to avoid every topic, calculated to perplex and embarrass the judgment of gentlemen, not professionally conversant with the law, by "*forcing* the discordant and unsuitable axioms and rules of *civil Courts, upon* a "military tribunal." Accordingly no "*rules or axioms of the Civil Courts,*" are adverted to, upon this occasion, but such as have been distinctly invoked to the practice of "military tribunals;" or such, as being founded in the immutable principles of right and justice, are necessarily common to both; and cannot be dispensed with, by either, without consigning the subjects of its jurisdiction to an unqualified tyranny. The truth is, there is no essential difference, either in the form of procedure, or in the principles, by which both are guided in the administration of *criminal* justice. The course of proceedings, at British Courts Martial, is said to assimilate more nearly to trials for *high treason*, in the Courts of common law: because prisoners, tried for that crime, have greater privileges allowed them by statute, than what are allowed in criminal prosecutions, for other offences. (*a.*)

All the forms of procedure of the Civil Courts, in the department of *criminal judicature*, are simple and concise: they are clear of the technical subtilties, and of the nice and artificial distinctions, which have resulted from the abstruse and complicated rules of property, and the perplexed dialectics of special pleading: they are the result of great sagacity, long experience, and a practical insight of human affairs; exerted in the compilation of a system of rules, necessary to the protection of property, life and reputation, against the irregular, capricious and vindictive action of power. 'Tis beyond the reach of human sagacity to institute or digest any system, which is to act with infallible and undeviating truth and accuracy, in all the diversified occasions of practice: consequently, in some particular instances, the forms with which human rights are fenced in and guarded, may rather inconveniently fetter and retard the march of substantial justice: these forms are nevertheless wholesome and necessary—and 'tis better to endure some partial incon-

(*a*) McArthur, (4th Edit. London) B. 1. Ch. 12. S. 1. P. 282

veniences, than encroach upon the conspicuous and well defined land-marks, intended as impassable barriers against the oppressions of the mighty upon the weak. And of all the modes, in which might can demonstrate its cupidity or its wrath, to the danger of individual security and justice; and against which, every free community is the most provident and circumspect in devising, and most tenacious in maintaining wholesome checks and restraints,—is that of high-seated power, bearing down upon its victim, with all the weight and circumstance of official splendour and influence, in a state prosecution. A vulgar error has sometimes prevailed, to the great disparagement of the military character, that a military establishment must necessarily be composed of men, who have voluntarily surrendered all the essential rights of citizens; and who have abandoned every thing sacred and dear in life and honour, to the uncontrolled will and unregulated power of the government. Against such an absurdity, it would be superfluous to contend, before an intelligent and experienced tribunal, composed, as is the present, of gentlemen, who have been disciplined in the rights and duties, alike of civil and of military life: as every man, aspiring to wield the arms of an enlightened republic, must be, or sink into the pernicious and degraded instrument of usurpation and despotism.

Then, it is one of the fundamental and uncompromising maxims, as well of martial, as of every other human law, that it should define, before hand, and with precision, the offences which it punishes: the only alternative is to leave it to the absolute discretion of every successive Court Martial, to determine, without any fixed rule or guide, upon each particular accusation, whether the act charged be one, which the law either designed, or ought to have punished. This alternative is universally held to be the very essence of tyranny; and utterly incompatible with any sound principle, by which either military discipline and police are maintained, or the forms of civil government instituted. Wholesome restraints of the ceaseless tendency of power to excess, and to irregular exertions of its force; and well defined rules by which individuals may certainly know what actions are either enjoined or forbidden, are just as necessary to the conservation of the military, as of the social virtues. Once beat down the barriers, by which the essential rights of the soldier are protected, against the invasion of vindictive or capricious power, and every tie of subordination, but that of brute force, is dissolved: the generosity of soul, that ennobles valour, and gives all its moral elevation and dignity to the military spirit, is extinguished; his rapid degeneracy, renders him no longer formidable to any, but to the state, which has degraded and debased him. No government, whose institutions bear the remotest affinity to our own, has ever acted upon the notion, that persons, in military capacities, were to have their relative rights and privileges defined, or guarded, by any less fixed, certain, known, and precise laws and rules of conduct, than their fellow citizens, in civil capacities; or that criminal justice was to be administered, in military

courts, with any less regard to the fundamental principles of legal justice, than in other courts of judicature. The rights and privileges of the Janissary are just as well defined in theory, and respected in practice, as those of any other of the subjects of Turkey; where all are equally exposed to the arbitrary caprices of a power, which is despotic, only because it is of indefinite extent, and vague and uncertain in its limitations, and in its rules of action. These same Janissaries, at once the instruments and the terror of the despotism they uphold, are but the type of what every military establishment must become, when placed out of the pale of the general law, by which the relative rights and duties of individuals are defined; and which determines, by fixed, known, and precise rules, the offences, which may draw down the penalties of vindictive justice.

Accordingly all the regular governments of modern times, which have made much progress in civilization and improvement, have been at great pains to digest codes for their fleets and armies; by which all military crimes and punishments have been enumerated and defined, with more or less of precision.

Indeed so manifest is the expediency and indispensable the justice of extending to military men and to military tribunals all those essential, and generally received principles and forms of judicial justice, which are supposed to constitute the sanctions of property, life and reputation, to the citizens at large; that the practice is said to prevail in many of the foreign services, on the continent of Europe, of extending to soldiers the privilege of being tried by their peers: for which purpose, some of the same rank with the prisoner, from officers of the highest rank to privates, are admitted as members of Courts Martial. This practice has, it seems, been recommended, but successfully opposed, in the British service. (a)

In Britain, it has been, for a century and a half, the subject of anxious and minute legislation, in successive parliaments; which has resulted in a compilation of criminal law, for their fleets and armies, as elaborate, and, perhaps, more systematic and complete, in its kind, than any they have hitherto framed for the community at large. The British articles of war, both military and naval, have been, respectively, adopted by Congress; with such modifications as were thought necessary to fit them to the peculiar organization of our own establishments: and it must, in candor, be confessed, that our alterations of the British system have not been uniformly for the better; but, in one or two particular instances, (presently to be remarked upon) decidedly for the worse.

Of the 42 articles adopted by the Act of Congress, for the government of the Navy, thirty (from the 3rd to the 32nd inclusive) constitute what may be called the criminal code of the Navy: in which all the offences, cognizable by a Naval Court Martial, are enumerated and defined; the appropriate punishments for each kind and de-

(a) Adye, ch. 2. page 13, 4

Q. Examine the several interlineations, and erasures, in the record proved by you yesterday as your transcript from the original minutes of the Judge Advocate, at pages 7, 8, 21, 25, 26, 31, 32, 38, 40, the adjournment at page 38, and the note at the bottom of the page 41, and say by whom they appear to have been made?

A. The interlineations appear to be in the hand-writing of Mr. Coxe; I cannot say whether the erasures were made by him or by myself, the adjournment at p. 38, is in my own hand-writing, the note at p. 41, is in the hand-writing of Mr. Coxe, the (7) in page 41, is I believe, Mr. Coxe's.

Q. Can you recollect, with certainty, whether the original minutes, when given to you to copy, had in them the words and passages which now appear interlined, erased and added, at the pages above mentioned of the said transcript?

A. I do not know that I can with certainty.

Q. From your recollection of the general accuracy or inaccuracy of your transcript, as originally made, can you say that you made the mistakes, which these alterations, now appearing on the face of the transcript, indicate?

A. I cannot say that I made all of them; I know that I made a considerable number.

Q. Refer more particularly to the interlineation at p. 7, and the note at the bottom of p. 41, and say whether you have any recollection of having made those mistakes?

A. I cannot say whether or not it was my omission.

Q. When did you first see that part of the record, giving the last day's proceedings, stated as in the hand-writing of the Judge Advocate; and do you know any thing of the penciled interlineation in the second paragragh of the same?

A. I do not recollect seeing that part of the proceedings, until it was shewn me yesterday, and I know nothing of that interlineation; all that I recollect is, that, when I called, as usual, for the proceedings of that day, I was informed, by Mr. Coxe, that it was copied by him for the purpose of being transmitted to the Department, or words to that effect: I do not think I saw the proceedings of that day, at all, until I saw it yesterday.

Question by the Judge Advocate.

Q. Have you any recollection of my making, on one or more occasions, so many corrections, in your transcript, that you proposed taking it back with you to make a fair copy? and what passed on that occasion?

A. I do recollect there were so many corrections in one day's work, as to induce me to ask to re-copy it. Your reply was, that there was not then time; that you had to carry them out with you to the Court, to read them as the proceedings of the Court.

On the part of the accused:

Q. Did you ever make more than one copy of the record?

A. I have no recollection that I ever did; I think I may have made other copies of papers exhibited by Commodore Porter, but I think I never did for the record.

offence is characterized in the British articles ; as "behaving in a *scandalous, infamous, cruel, oppressive*, or *fraudulent* manner, unbecoming the *character*," &c. and marks out for reprobation, and for the same sort and degree of punishment, as the British articles, conduct, simply characterized as, "unbecoming an officer and a gentleman;" (*a*) Without specifying. how or to what degree, it is unbecoming to him ; or whether, to his moral or his professional character ; or to his person, or his manners : this article, in neither of its forms, is to be found among our naval articles of war, but there is, among the latter, one corresponding to the second of the British Naval Articles ; which, after enumerating "oppression, cruelty, fraud, profane swearing, and drunkenness," concludes with "other *scandalous conduct*, tending to the destruction of *good morals*." (*b*)

Now here it must be confessed is ample scope for the exercise of a *sound discretion* in deciding, in one case, what acts are *scandalous, infamous, &c.*—in another, what are "unbecoming an officer and gentleman ;—in another, what immoralities, under the denomination of "other scandalous conduct," are equivalent, *in turpitude*, to the immediately preceding enumeration of "*oppression*, cruelty, fraud, &c." still 'tis nothing more than a *sound* discretion, acting under the authority, and by the express mandate of the law—not an unlimited direction to legislate new offences into existence. When the nature and degree of the offence are once ascertained by the application of that sound discretion to the facts of the case ; and these facts are found to bring the case within the operation of the law ;—'tis then an offence as emphatically embraced within the purview of the law, and as positively prohibited, as if it had been therein designated by name, or by the most specific description. After all, it is nothing more, in principle, than the ordinary discretion of every court of law, to construe, interpret or expound the obscure, perplexed, and doubtful terms of general statutes. There is also vested in Courts Martial, an extensive discretion, as to the sort and degree of *punishment* to be inflicted for various transgressions. So every criminal court has more or less, discretion to inflict *optional* punishments ; and we see them, every day, deliberating on a fine from one cent, to any indefinite amount ; or imprisonment from one hour to seven years, or no imprisonment at all.

In short, the exercise of this *sound legal* discretion, by whatever court, civil or military, and to whatever degree, is nothing more or less than the judicial exposition, or the judicial execution of a positive law; and leaves the conclusion untouched, that no offence is cognizable by a court martial, but what is prohibited and punished, by some article of the military code, under the authority of which the court acts ; and consequently, that every accusation or charge must set out, in *terms*, an offence, so prohibited and punished ; or be excluded from the cognizance and jurisdiction of the court.

(*a*) Vid. Rules and Articles for the government of the armies of the U. S. Art. 83 Macomb, pages, 63, 241.

(*b*) Vid. Laws U. S. p. 351. ch. 187. Art. 3. 1. McArthur, App. No. 1. Art. 2. p. 325.

The defect of power in a Court Martial to erect itself into a court of honour; and, as such, to assume censorial jurisdiction over such breaches of good manners, or good morals, or of decorum and gentlemanly demeanour, as are not made positively unlawful by the articles of war, or some statute, is strongly illustrated by the case of a British officer, tried at the Cape of Good Hope; under a charge of "*scandalous*, infamous conduct, unbecoming the character of an officer and a gentleman:" in support of which, it was proved that, after making a *present* of a horse to a general officer, he sent in a charge of 60*l* for the same horse. Upon which the court acquitted him of the graver part of the charge, "*scandalous infamous* behaviour," but found him guilty of mean, dishonourable, and ungentlemanly conduct; for which they sentenced him to six month's suspension, &c. Yet, upon an appeal to the king in council, it was solemnly decided, that the Court had no jurisdiction over this inferior immorality, of mean, shabby conduct; but that, having acquitted him of the *legal* part of the charge, he stood acquitted altogether. (*a*)

The point may now be taken, as clearly established, that a Court Martial, being a court of limited and defined jurisdiction, in respect both of *persons* and *offences*, can take no cognizance of any act or word, but such as is positively prohibited and punished by the military code, and can exercise no discretion, in determining either the legal or the moral character of such act or word, but what is expressly communicated to it by law.

This brings us to the consideration of the form, and substance of the accusation, or charge; in order to determine, 1st, whether any offence, cognizable by the Court, be set out, in terms; and 2dly, if there be, whether it is set forth, in such manner and form, and with such specifications, as, according to the established law and practice of Courts Martial, may justify calling upon the prisoner to answer.

A more particular enumeration of the terms, in which the charges and specifications now objected to, are conceived, may be usefully preceded by a succinct analysis of the rules, by which the form of such accusations is prescribed. These rules shall be deduced from the most approved writers and authorities upon martial law alone; all of whom concur, with undeviating unanimity, in the terms of the rules to be cited, and rival each other in the amplifications and illustrations, by which the utility and necessity of a strict observance of them are enforced.

Then there must be a *certainty* of the offence committed: it must be set out in such terms as bring it unequivocally and clearly within the law or statute, by which it is made punishable; in some instances even words *synonymous* with those of the article prohibiting the offence, do not suffice; but the *very words* of the law must be used, as in case of mutiny, &c. and the special manner of the whole fact must be set forth with certainty, in the specifications. All the circumstances of *time* and *place*, and of the *acts* charged,

(*a*) 2. McArthur, ch. 8, s. 9. p. 297—8.

must be minutely described. If disrespectful, contemptuous, or mutinous words be imputed to him, the very words must be specified; and it is not enough for a witness to say that words of such an *effect*, were spoken, but he must prove the very words. The more general and vague the description of the offence in the article by which it is punished, the more particular and minute must be the specifications in the accusation of the facts and circumstances, intended to be proved in support of it. 'Tis agreed, on all hands, that there must be the same precision and the same minuteness, (and in many instances greater minuteness,) as in *indictments*, in the civil courts. One author, Mr. Tytler, a Scottish advocate, and of course a civilian, would rather compare it to a *libel*, (which is equivalent, in the tribunals under the civil or Roman law, to an indictment or criminal information at *common law*,) because the libel deals in more minute and diffuse specifications of the facts and circumstances charged, and 'tis certain that a Court Martial more resembles a tribunal of the civil law, than of the common law, since the members unite, in their own persons the character both of Judge and juror —(*a*)

The *rationale* of the rule is the same in all courts: which is, that the prisoner, being thus minutely informed, under *what law*, for what *offence*, and of what *facts*, he is accused, may duly prepare himself for his trial. In the same spirit, 'tis required, that he be furnished with a true copy of the *charges and specifications*, and the *names* and *descriptions* of the witnesses, for the prosecution, in due time before his trial. The object of this rule is not only that he may be prepared to meet the *matter* of the charge; but to canvass, and if necessary impeach the competency or the credit of the witnesses: and after a copy of the charges has been thus served upon the prisoner, they are unalterable, but under peculiar and extraordinary circumstances. (*b*)

All this is the established *law* and practice of Courts Martial, deduced from the strongest analogies of judicial justice; and on the best authorities, deduced from the most approved treatises upon the law and practice of such courts. But, in this country, it does not rest upon such authorities alone, but upon these authorities, recognized, adopted and embodied into our Naval articles of war: by which it is expressly enacted that the "person accused shall be furnished with a true copy of the charges, with the specifications" &c. (*c*) If, therefore, the general doctrine required any corroboration from statutory enactment, here it is; for, in the use of the term "*specifications*," every thing is implied, that had been authentically held to be involved in its true meaning and effect.

(*a*) Adye p. 1. ch. 6. p. 127—8. Tytler, ch. 5. s. 1. p. 200—218. McArthur, B. 2. ch. 1. s. 3. p. 6—12. Macomb p. 61—3.

(*b*) Adye, p. 127-8. Tytler, p. 217, 244, 358. 1 McArthur, 281-2, Macomb, 89, 172.

(*c*) Vid. Laws U. S. Vol. 3, p. 358, Art. 38.

Now let this 2nd charge and its specifications be brought to the test of these rules.

First of all, as an *indictment* or *information*, for an offence cognizable by a Court of Common Law; it is impossible for any lawyer to hesitate one instant in pronouncing that it would be utterly vicious and void: not for the want of any *forms* or *solemnities*, merely technical, but for the most essential and palpable defects of matter and substance.

Then, by this test, it fails; there is a plain and incurable failure; the whole must be rejected and set aside.

But let the context be minutely examined and tried, by the loosest rules that the greatest latitudinarian in military jurisprudence could desire.

Before its validity, as the description of any offence, within the terms of the Naval Articles of War can be determined, its *meaning* must be ascertained; and that is the most uncertain, obscure, and perplexed imaginable.

The charge itself, considered separate and apart from the specifications, consists of two members, but both, 'tis presumed, intending the same identical act or offence, and only describing it with superadded aggravations: the conduct imputed was *unbecoming* an officer, because it was *insubordinate*.

The first member of the charge is "*insubordinate* conduct;"—and here we are at sea, without chart or compass: for the conduct imputed to the accused is characterized by an epithet unknown to our language. Being unable to discover it in any vocabulary, or in any document of the language, either of science or of general literature, it was presumed to be a term of art, and peculiar to the art military. But no research, in our power to make, into the nomenclature of that art, has been attended with any greater success. The next process was to resort to the etymology of the word; and, presuming it to be the negative or privative of "subordinate," the validity of the charge, as a precise accusation under some Naval Article of War, was tried by that test. But it was not found that the negative quality of that adjective could, by any possibility, be made out to be such an accusation. Then presuming that the adjective "*subordinate*" might have some peculiar and technical meaning, distinct from what is affixed to it in the language of science and general literature, military dictionaries, and other works upon the art military, have been consulted, but in vain, to detect any such technical meaning. On the contrary, the only book on military affairs, (and that is one expressly written on military jurisprudence,) in which our very partial research has discovered the word, uses it precisely in the same sense, as it is found in the language of science and general literature:—that is, as indicating the *gradations* in the series of military rank: (*a*) exactly agreeing with the definition of the word given by the best authorities—"in-

(*a*) McArthur, ch. 2, s. 1, p. 15—16.

ferior in order; descending in a regular series." So the negative of this quality would charge Commodore Porter with "conduct not inferior in order, not *descending* in a regular *series*;" and under what article of war may such conduct be brought? The process of etymology has been pushed still further, in order to discover the true meaning of this charge: the substantive "*subordination*," has been pressed into the service; and 'tis found that, in military language, it has acquired a meaning, somewhat different from that by which it is generally defined and understood—namely, an obedience to orders. (*b*) Then, if by any legitimate coinage, "insubordinate conduct" could be understood as expressing the negative of subordination, we have nothing more or less than a charge of "disobedience of orders, and conduct unbecoming an officer;" a repetition *verbatim* literatim of the first charge; for which the accused is now under trial.

This identity of the 1st and second charges, thus elaborated from the devious circumlocution of loose analogies of the *periphrasis*, supposed to be couched in the terms of the 2d charge, is the most favourable interpretation; for the dilemma is fairly put; it must have that meaning, or no meaning.

In that sense of the charge, which of the five specifications, or what circumstance in any of them, squints at any *disobedience of orders*.

The second member of the charge, "conduct unbecoming an officer," though free from the solecism of language apparent in the other, is equally foreign to the terms and definitions of any naval article of war. Even, under the extremely vague terms of the 83d military article of war, (which is here distanced in vagueness and uncertainty,) it would be utterly untenable: but, as the naval code contains no analagous articles, there can be less justification, here, of this indefinite and unintelligible charge. Nothing is more uncertain, nothing more dependent upon the evanescent caprices of taste and fashion, than what may "become an officer." It may be very unbecoming in him, to do a thousand of the most innocent or indifferent things in the world: he may wear his hat, or his sword, or his coat, after a very unbecoming fashion; what might be very becoming in a young Lieutenant of twenty, might be quite otherwise in the hoary veteran: in short, there is no end to the minute instances in which he may transgress the decorums of life, and good breeding, without bringing himself within any of the penal prohibitions of military law.

The charge itself being vicious and defective in its terms, it becomes, in a measure, useless to inquire into the nature of the specifications: for if the charge falls, the whole *substratum* of the specifications, every thing that gives them significancy or application, is taken away.

We have not, however, stopped here, but have endeavoured to

(*b*) Duane's Military Dictionary, in voc

discover whether these specifications ascertained, with any precision, the true meaning and *gravamen* of the charge. The result will be found in the following summary of them:

1st specification. In explaining the meaning of the charge, by this specification, a notable instance of the old paradox of the "ignotum per ignotius," met us at the threshhold: of the obscure explained by the more obscure—"confusion, worse confounded," followed from explaining "insubordinate conduct" by "insubordinate letters." We are here told that the conduct, complained of in the charge, consisted in the writing of "various letters of an *insubordinate* and disrespectful character." Here, our old difficulty, from the new-coined word, *insubordinate*, again opposes our research after a meaning—a difficulty certainly not diminished by being applied to *letters*. Our former analogical definition, "disobedience of orders," seems to be further from the mark, than ever. It might be well enough conceived, how a man might be ordered not to write a letter, and might, by writing one, disobey the order: but how the letter itself could acquire the quality or character of being "*insubordinate*," is not so easy to be imagined. Now, take the other characteristic of these letters: that of being "*disrespectful*"—and what article of war denounces "disrespectful letters" as a military offence? Besides, neither the tenor, nor the substance and effect of these letters, is set forth: then *how* are they disrespectful? In what degree; in what does the disrespect consist; and to whom was it offered? All these particulars are left to the vaguest and most uncertain conjecture. There would be no end to the possible modes and degrees, in which a letter may be deemed *disrespectful*. The disrespectful character here imputed to these letters, may consist of such a minute transgression of high breeding, as that mentioned in a certain popular novel; where a very refined and fastidious gentleman, receiving a letter sealed with a *wafer*, instead of *wax*, indignantly spurns at it, as contaminated by the spittle of the writer.

Upon this whole subject of disrespectful letters, or *disrespectful* conduct, it may be sufficient to say, that no such offence, in any of its modes or degrees, is to be found among the naval articles of war. The 5th and 6th of the *military* articles do, indeed, punish contemptuous or disrespectful words, towards a certain description of enumerated personages; but there are no such articles in the naval code; and if there were, there is no charge or specification to bring the case within them. The naval code punishes *mutinous* words, and the treatment of a superior officer with contempt, (*a*.) There is no pretence here, that any conduct or any language of Com. Porter, was liable to either of these imputations. "Contempt" to a superior officer, is a technical term, and is, by no means, necessarily comprehended in the imputation of "*disrespectful* letters," or "disrespectful insinuations." Besides, there

(*a*) Art. 13.

is not in this charge, or in any of the specifications, the least suggestion, that any disrespect was conveyed, either by the letters, or by the insinuations, to a *superior officer*, within the meaning of the 13th naval article. But the specifications are all so radically and incurably defective, in other respects, that this is scarce worth mentioning.

2d specification. This might be discussed by a single question—namely: What article of war, or what other law, had made it unlawful, or, in any sense, *improper*, to publish the proceedings of the Court of Inquiry, *after* that Court had made its report—had finally disposed of the subject, and had been dissolved? The proceedings of the Court were necessarily open and public to all the world—all the world was free to publish them; and why not Commodore Porter? If, indeed, it be not a solecism in terms to accuse him of publishing what was already public, without any agency, active or passive, on his part.

This presents a very different question, from that of publishing, during the *progress and pendency* of a trial, detailed reports of the evidence, from day to day—a practice peculiarly incompatible with the order of proceeding, and principles of practice, in Military Courts; and highly improper and mischievous, for many obvious reasons, in any Court. If Commodore Porter had violated the respect and duty incumbent on him, as a party before the Court of Inquiry, by making any such obnoxious publication, he would, doubtless, have been called to a summary account by the Court, in the exercise of its incidental power, to punish the contempts of parties and witnesses. But with the trial, every reason against a detailed and public report of the proceedings, ceased; and, accordingly, it is one of the most ordinary, and at the same time, of the most unquestioned rights, to publish such reports, *after* the trial. In this case, the functions of the Court of Inquiry, upon which such publication might have operated improperly, had ceased; and if any inconvenience has been experienced in practice, from publications, which may operate on the deliberations of the Executive, by convincing or informing his judgment, it will be time enough to punish the act, when some law shall have made it an offence. In this specification, then, is the absence of every circumstance, that might have shown how this publication was, either *actually* or *possibly* mischievous. The nature of the proceedings, so *published*, and the *motives* and objects of the publication, are circumstances that are altogether overlooked.

3d specification. "An incorrect statement of the proceedings." Here, again, we ask, what definite idea, either of the *fact*, or of the *gravamen* of the charge, does this specification afford? Where does the incorrectness consist? Is it in the punctuation, the orthography, the syntax, or any other transgression of grammatical rules? In what degree, and to what extent, is it incorrect? and with what design or motive was it made so? Is it in material or im-

material circumstances ; from inadvertency or design ? Here, again, we are left to illimitable conjecture ; for all these particulars, which should have been distinctly and precisely detailed, and set forth in the charge and specifications ; and which, after they had been drawn out, in the minutest detail, could have constituted no offence, cognizable by this Court—unless, criminal falsehood from corrupt or malicious motives, could have been imputed ; so as to make out a charge of *scandalous* conduct, &c. under the 3d naval article of war.

4th. Specification. Here, we have nothing, but a new version, without the least amendment, in point of minuteness or precision, of the 3d Specification. It contains only some additional *aggravation ;* but not one additional *fact ;* the aggravation is that the same publication contained *insinuations*, highly *disrespectful* to the Secretary of the Navy, and to the Court of Inquiry. This might, also, be disposed of by a single question : namely, what article of the Naval code, makes any such *disrespectful insinuations* criminal ? but it may be further asked, what passages of the publication were fraught with these insinuations, and with what insinuations were they fraught ? why were not all these particulars specified, so that the Court might have judged, for itself, whether the *innuendoes* were legitimate deductions from the context ; and, if so, whether disrespectful, and in what degree, and to whom ? as it now stands, the whole matter is left so vague and uncertain, as to defy the sagacity of the most experienced jury of sworn guessers : if, as has been reported, but I know not upon what authority, there ever were, at any time or place, any such auxiliary to the regular administration of justice.

5th. Specification. After what has been said of the others, this requires little or no comment. What particular documents are here alluded to and intended, under the general description of " official communications and correspondence, " or of " public orders and instructions ; " whether there were any injunction of secrecy respecting them, either express from a competent authority, or necessarily implied by their nature and character, to whom they were disclosed ; the time when, the place where, and the manner how ; are circumstances unexplained, and altogether overlooked : which it would be vain to guess at ; and if, perchance, they should be come at by the most fortunate and miraculous of guessers, they would be utterly inconsequential and useless, under the existing frame of the principal charge.

No one circumstance, either of the distinctive description and identity of the documents, or of the time, place or manner of their publication, is given ; except that one set is said to have been " made public, " " in the same publication," referred to in the former specification : and that the other set, is said to have been "made public, " " on other occasions," within a given period of about eight or nine months. Now, if every other objection were out of the way, what should be said to this latitude of *time ;* in the face of

semblance to each other. Still more reasonable is it to presume that the original practice of military courts was in a great measure borrowed from that which had been previously established in the civil tribunals of the same country. The principles of both were originally the same, the forms of proceeding were analogous, and though modifications would inevitably be introduced, from a variety of causes, and many forms familiar to the one be unknown to the other, yet a considerable resemblance would continue to subsist. It is, therefore, generally laid down by all writers on military courts, that when their own rules of practice and principles of decision are not calculated to meet the exigencies of a particular case, reference should be made to the civil courts of the same country to supply the deficiency. A reference ought perhaps to be made on the present occasion, to the practice of the common law courts, and the result of such reference may be widely different from what is contemplated by the accused. No principle of law is better established in the civil courts of our country, as well those of criminal jurisdiction, as those which are confined to the decision of private controversies—those which are governed by the *principles of the* common law, as well as those which draw their origin and derive their principles of proceeding from the civil or Roman law, than that th accused in criminal prosecutions, and the defendant in private controversies, may avail himself, by way of defence, of a defect or i formality in point of law in the charge alleged, or may controv the facts upon which he is sought to be convicted. In the case an indictment at the instance of the Government, he may deny facts with which he is charged, or admitting them, may deny those facts amount to a criminal offence. He may, to employ technical language, either demur, or take issue upon the indictment. He cannot, however, do both. He cannot plead *not guilty* to the indictment, and at the same time controvert its sufficiency in point of law. He may resort to either defence, but cannot at one and the same time adopt both. The rule is the same in civil controversies, and the practice of the civil law courts is precisely analogous.

Conceding then that the analogy exists, for which the accused so strongly contends, and which with certain modifications long and well established, undoubtedly exists; it would seem to follow, necessarily, that the accused in the present instance has a right which it is not intended to controvert, to make his option, whether he will demur to the charge, as insufficient in law, or deny it as unfounded in fact. He has chosen the former course, and the consequence of such election may be ascertained by reference to the practice of those Courts from which his right is derived. "If the defendant demur to the indictment, whether in abatement or otherwise, and fail in the argument, he shall not have judgment to answer over, but the decision will operate as a conviction." Such is the doctrine laid down by one of the writers of criminal law of the highest authority. (*a.*) Unless in cases where the punishment is death, in

(*a*) 1 Curry, Vol. 1 [illegible]

which, from principles of humanity, a greater latitude is allowed. a prisoner who demurs to the indictment, admits the facts with which he is charged, and rests his defence upon the law alone. Should the indictment be determined sufficient, he is adjudged guilty. The analogy then for which the accused contends in the present case would, if pressed to the extent to which it must be carried, if admitted at all, involve this consequence, that if it should be determined by the Court that the present charge and the specifications under it, do contain an averment of an offence of which this Court can take cognizance, he is precluded from going into any evidence either of exculpation or mitigation, but must by the decision of the Court against the validity of these exceptions, be adjudged guilty to the full extent of all with which he is charged. Having selected the ground on which he will rest his defence, the very doctrine for which he so vehemently contends, confines him to that, and to that alone.

The present application to the Court is assimilated by the counsel for the accused to a motion, sometimes made in criminal Courts, to quash the indictment. The resemblance is defective in numerous particulars. It will be unnecessary to refer to more than one which is perfectly decisive of this question, and which is distinctly stated by the same author from whom I have just quoted. "It is therefore, a general rule, that no indictments which charge the higher offences, as treason or felony; or those crimes which immediately affect the public at large, as perjury, forgery, extortion, conspiracies, subornation, keeping disorderly houses, or offences affecting the highways, not executing legal process, will be thus summarily set aside." (*b.*)

Another remark is eminently entitled to the consideration of the Court, not merely as strongly corroborating the conclusion to which I have already pointed, but from its own intrinsic importance. At least two of the specifications charge a fact, which it is presumed, will not be controverted, and the only question which could seriously be contested before this Court, would be that now raised;—do the facts therein set forth, constitute offences for which the accused can be made amenable before a military tribunal. It will scarcely be denied, and indeed the Counsel for Captain Porter, has intimated to me, that the fact of publishing the pamphlet alleged in the second specification, and various instances of the facts averred in the fifth specification, will be admitted. The facts being conceded, not merely by inference of law, but literally, the only question remaining is, do they constitute an offence of which this Court can take cognizance. The determination of that question is, at all events, therefore to that extent, a decision as to the guilt or innocence, of the accused. By the oath administered at the organization of the Court, the promulgation of the sentence of the Court, is prohibited to each of its members, and to the Judge Ad-

(*b*) 1 Chitty 203, (300.)

vocate. If, therefore, this question should now be decided, as merely a collateral one, and that decision not be regarded as a final determination of the case, and as such announced to the Department, the consequence seems inevitable. So much of the sentence of the Court, as ascertains whether the accused is or is not guilty, is promulged contrary to the oath which has been taken. These considerations can scarcely have escaped the notice of the very able Counsel of the accused; and it is not to be presumed, that the consequences which have been pointed out, were not anticipated. At all events, the Court has been placed in this dilemma by the accused, and upon him must the consequences rest.

I would beg leave, respectfully, to submit to the consideration of the Court, another view of this question, not confined, in its application to the present case, but of great and general importance. Military tribunals are, as has been conceded by the Counsel for the accused, in many essential respects, courts of honour. Many of the charges, which it is usual to try before them, involve considerations of infinitely higher moment, to the individual arraigned, than the mere punishment to which, if found guilty, he will be exposed. The honour of an officer in the Navy, should be infinitely dearer to him than any other consideration. The members of such Courts are far better qualified to decide upon questions of this character, than upon the subtleties of special pleading, or the refinements of verbal criticism. It will be a subject of regret should it become common in the service, for officers charged with conduct unbecoming their character, involving their personal honour and veracity, to rest their defence upon technical formalities and critical niceties; which, even if allowed to protect them from punishment, will leave them exposed to obloquy and odium as guilty, in point of fact, of what is perhaps in inaccurate language, alleged against them. What gratification will it hereafter afford, either to the high-minded honourable gentlemen, who usually compose a Court Martial, or to the high-minded and honourable associates and companions of one arraigned before them, for conduct unbecoming his rank and station, if on the strength of a precedent established by such authority as this tribunal, the accused should be absolved from punishment, because the person who drafted the charges, has committed a verbal inaccuracy, or technical error, which, though it may nullify the charge in point of form, leaves the character of the accused, burthened with all the odium which the accusation itself creates, augmented by the tacit admission of guilt, which is involved by resting his defence, not upon a denial of the fact, but a nicety of special pleading or a philological criticism.

So long as the members of a Court Martial can perceive, that the offence charged, is couched in language sufficiently perspicuous and precise, to apprise the accused of what he is called upon to answer, so long, it is hoped, will they be averse to receive any defence, grounded upon mere defects of form. Such tribunals will ever be opposed to trying a brother officer, upon charges purpose-

ly couched in ambiguous language, calculated to mislead or entrap the accused. While they will be disposed to exact on the part of the prosecution, all information, and every light which can be required by the prisoner, fairly and fully, to meet and refute the charge, they will be equally indisposed to demand that degree of precision and formality which, while it contributes no aid towards preparing the defence, or guarding against oppression or surprise, only enlarges the field for the display of ingenious and captious criticism.

When such ceases to be the regulating principle of Courts Martial, all that now constitutes the pride and honour of the service, will be at an end. Officers, instead of devoting their time and attention to their professional duties, instead of cherishing a lofty and chivalrous sense of honour, instead of encouraging that spirit and feeling, which, while it confers dignity and magnanimity upon the superior, gives elevation and respect to the inferior in rank; will resort to the quirks and quibbles of the special pleader, the subtle casuistry of the professional logician, or the pedantic refinements of the verbal critic. How far such a change is desirable rests with this Court to determine. With great justice has it been remarked, that the decisions of this tribunal will be looked to with respect and deference. Precedents here established will be followed hereafter; and great weight will necessarily be attached to every opinion, emanating from such high authority. An appeal of a somewhat personal kind was a day or two since, made to me. A hope was intimated, and that hope is now enforced by something bearing the appearance of a threat, if not gratified, that the Judge Advocate would drop the charge, to which exception has been taken. It seems to be intimated that an investigation would, or might, disturb the tranquillity or reputation of some eminent and meritorious public functionaries involved in the dispute. Such a step, under these circumstances, would be repugnant to the wishes, and under any, would be wholly beyond the powers as well as incompatible with the duties of a Judge Advocate. The charges have been preferred by the Government, and by it submitted to this Court for adjudication. The power which preferred can alone withdraw the accusation—the tribunal to which it has been referred, can alone judicially decide it.

It may, however, be observed, that the Government cannot be supposed to be tenacious upon this subject, nor is the smallest solicitude felt by the Judge Advocate as to the decision of this question. Those who alone are interested, are the accused and others belonging to the service: and such a decision as is craved may well be deprecated by them. The offences charged, are such as the government possesses ample means to punish. It can vindicate its own authority, and protect itself from contumelious or insulting language. Disrespectful conduct and letters, to the Head of the Navy Department, have heretofore been punished without the instrumentality of a Court Martial, and may be again. If this Court shall determine, that such conduct and such language constitute

no offence, of which it can take cognizance, the consequences of that decision will be felt, and felt only by those belonging to the service. The Government, instead of submitting cases of this description to the determination of such a tribunal, instead of bringing those who have offended, before their peers, for a fair and impartial trial, will be compelled by the principle of self preservation, to exercise the power which it possesses, of punishing the offenders. The act of submitting this case, therefore, to this Court, so far from being a measure at which the accused ought to take exception, should be received by him in the same feeling in which it was done. The only object was to afford him an opportunity of submitting to the impartial determination of his peers, whether any justification, any extenuation, any apology, could be offered for conduct, which, in itself seemed so highly reprehensible and so deserving of punishment. If this Court shall determine that, in point of law, every officer in the Navy may, without violating any article of the Naval code, and without subjecting himself to punishment before a military tribunal, write disrespectful and insubordinate letters to the President of the United States, and to the Secretary of the Navy; may publish to the world his orders and instructions from the government, and his correspondence with the Department; may publish accurate or inaccurate statements of the proceedings of Courts of Inquiry, while the same are under advisement of the Executive; may make charges and insinuations, not warranted by the facts, highly disrespectful to the Secretary of the Navy and the members of a Court appointed to investigate his conduct—so let it be. The individual, charged by the government with such insubordinate conduct, should be the last to desire to withdraw such an accusation from the decision of his brother officers.

On this occasion, as on all others, in which it prefers charges, the Government has expressed its opinion that the acts which the accused is alleged to have committed, are reprehensible, and deserve punishment. All charges brought before a military tribunal, necessarily involve the idea, that the person who prefers them, conceives the facts set forth to be criminal, to the extent in which they are so charged, unless some circumstances of justification or mitigation can be presented. The single object of submitting the charges to the consideration of the Court, is to ascertain judicially, whether or not, he has acted as he is charged with acting, and whether he was justified by the circumstances in which he was placed, in so acting. In the present instance, an opportunity has been afforded to the accused before this high tribunal, of proving that he was authorized to use the language which is accused of being disrespectful; that the assertions and insinuations alleged to be not warranted by the facts were true—and that he was justifiable in the conduct which is charged to be reprehensible. Instead of availing himself of this opportunity, he insists that these allegations, if true, contain no matter to which he can be called upon to answer before

a Court Martial. He rests his defence upon the law, and by the law his case must be decided.

I shall now proceed briefly to examine the objections both general and particular, that have been urged, and shall endeavour to satisfy the Court by reason, by positive enactment, and by precedents of high authority, that this charge, and each and every of the specifications, are sufficient in point of law.

On the present occasion it may be considered as superfluous to disprove the correctness of a general position which has been asserted with so much confidence by the very able counsel for the accused, that no offence can be tried before a Court Martial, but one which is specially prohibited by some positive statutary enactment. To shew that the learned counsel has been in this particular not quite so accurate as might have been expected from his known accomplishments and varied erudition, I shall beg leave to cite a single passage from an author to whom he has frequently referred. Mr. Tytler, after quoting the 36th section of the British Mutiny act, thus proceeds to comment upon its provisions.—"Although it follows from these clauses, that no crime which is mentioned and defined by the articles of war, is punishable by a Court Martial in any other manner than that which is specially directed by those articles; yet it does not follow that there are no crimes punishable by a Court Martial, but such as are enumerated and declared to be punishable by the articles of war." (*a*) He then proceeds to shew that a Court Martial may inflict punishment for any breach of the regulations or orders respecting the army, though nothing touching the same should appear in the Mutiny act or articles of war. In the following page he continues—"But there are offences which admit of no precise definition, and yet, which in the military profession, are of the most serious consequence, as weakening and subverting that principle of honour on which the proper discipline of the army must materially depend. Of these, a Court Martial, which is in the highest sense a court of honour, are themselves appointed the sole judges, or rather the legislators; for it is in their breasts to define the crime, as well as to award the punishment."

Every officer in the Navy, occupies a particular relation with the President of the United States, his commanding officer, by whose appointment, and at whose pleasure he holds his commission. Many instances of crimes of a military character might be enumerated, which are not in terms prohibited by any code of Naval law. Many military offences it would be impossible to define, with the same accuracy with which offences at common law are defined. Many are wholly dependent upon the relationship which subsists between the officer and his superior. Among these is *insubordination*, a term perfectly well understood, both in civil life and in military service. The definition, or rather description of *subordination*, has been given with great accuracy in one of the works to which the learned counsel has referred, and it will hereafter be particu-

(*a*) p. 107—8.

larly cited. Without subordination no service can exist, no discipline be enforced, no harmony preserved. It is peculiarly a military duty, though by no means exclusively so. The general peace of society, the domestic tranquillity of families cannot co-exist with insubordination. The general meaning of the term subordination, may be distinctly comprehended, but it would be impossible to enumerate all the cases, much less to describe them with logical accuracy, in which an officer may be guilty of insubordination. The meaning of the term being comprehended, and no soldier can long remain ignorant of its signification or of the necessity for enforcing it, its application to particular cases, must be determined by the sound discretion of the Court. In this respect, it is analogous to mutinous conduct, disobedience of orders, &c. which must always and necessarily be equally vague and indefinite, and be equally applicable to a thousand wholly dissimilar actions.

So also, in regard to conduct unbecoming an officer, or as the same idea is frequently expressed in military books, and before military courts, unofficer-like conduct, a form of expression which, though perhaps not found in any vocabulary, is as intelligible as any other in the language. Whether any particular act merits this epithet, can scarcely be a matter of serious doubt among officers whose own characters and demeanour clearly demonstrate that they perfectly well understood in theory, and never omit in practice, a conduct which becomes their rank and station. If doubts on such a question should arise, they will never be solved, nor will the minds of the members of the tribunal whose duty it is to decide them be illuminated by special pleading or verbal criticism. The instances are numerous in which officers in our own service have been arraigned before military courts for acts which are stigmatised as unbecoming their station, and perhaps it would be difficult to conceive a more complete disqualification for holding a commission, than an actual ignorance of the meaning of these phrases.

The learned Counsel, in commenting upon this charge, has alleged that "the conduct imputed to the accused, is characterised by an epithet unknown to our language;" and, after exhausting his critical talents in conjecturing its meaning, he comes, at last, to the conclusion, that the signification to be attached to it, the most favourable to the prosecution, is, that as *subordination* has, by one single author, been made to signify *obedience of orders*, *insubordination*, or *insubordinate conduct*, must mean *disobedience of orders*.

Without indulging the idle expectation, that it will be in my power to compete with the ingenious gentleman in his philological researches, or to do full justice to a specimen of verbal criticism, which, however suitable an appendage to the Diversions of Parley, seems to have wandered out of its proper sphere, when it found its way into the proceedings of a Court Martial, I must beg the indulgent attention of the Court to a few remarks.

One of the most beautiful and philosophic writers, whose works embellish English literature, commenting upon a similar effort of in-

genuity, asserts that it proceeds "on a supposition, founded on a total misconception of the nature of the circumstances, which, in the history of language, attach different meanings to the same words, and which, often, by slow and insensible gradations, remove them to such a distance from their primitive or radical sense, that no ingenuity can trace the successive steps of their progress." (a)

The signification which the learned Counsel has quoted and attributed to the words *subordinate* and *subordination*, is unobjectionable; I shall, however, shew, that they are employed by high authorities, in a sense perfectly appropriate to the present occasion.

In the report made by General Scott, containing a system of field service and police, submitted to Congress, Dec. 26, 1820, p. 50, and approved by that body, in giving his definition of Discipline, he attaches to it this meaning: "correction, or the enforcement of subordination; the award and infliction of punishment, consequent on a breach of that subordination, that is consequent on a neglect or breach of some duty."

In the present military code, it is repeatedly, it is believed, employed in the same, or closely analogous sense. In Duane's Military Dictionary, quoted by the learned Counsel, it is thus described: "A perfect submission to the orders of superiors; a perfect dependence, regulated by the rights and duties of every military man —from the soldier to the general. Subordination should shew the spirit of the chief in all the members; and this single idea, which is manifest to the dullest apprehension, suffices to shew its importance. Without subordination, it is impossible that a corps can support itself—that its motions can be directed, order established, or the service carried on. In effect, it is subordination that gives a soul and harmony to the service; it adds strength to authority, and merit to obedience; and while it secures the efficacy of command, reflects honour upon its execution. It is subordination which prevents every disorder, and procures every advantage to an army."

In the same sense is the word employed in the first article of the rules and regulations for the government of the Navy; "the commanders of all ships and vessels of war are strictly enjoined and required to shew in themselves a good example of virtue, honour, patriotism, and *subordination*."

In the 2d vol. of Marshall's Life of Washington, p. 245, 6, that eminent authority remarks—"The army was consequently found in a state of almost entire disorganization, and the difficulty of establishing the necessary principles of order and *subordination*, always considerable among raw troops, was greatly increased by the short terms for which enlistments had been made."

In a letter from General Washington to Governor Henry, of Virginia, Note XIX, at the end of the same volume, he says—"Discipline and *subordination* add life and vigour to military movements."

If the signification of this term should be considered as ascer-

(a) Stewart's Philos. Ess. 239.

tained by the foregoing citations, which have been introduced, for the purpose as well of showing the military sense of the term, as the high importance of the military duty of subordination; it would, perhaps, be unnecessary to consume time in shewing, by reference to equally high authorities, the meaning of the word, and the dangerous character of insubordination. It might be sufficient to quote from Dr. Johnson's preface to his Dictionary, a single passage, to shew why this term is not found in any vocabulary of our language, if such indeed be the fact. That learned lexicographer observes—"of some forms of composition, such as that by which *re* is prefixed to denote repetition, and *un* to signify contrariety or privation, all the examples cannot be accumulated, because the use of these particles, if not wholly arbitrary, is so little limited, that they are hourly affixed to new words, as occasion requires, or is imagined to require them."

I shall, however, cite a few examples of the use, as they will serve to shew the signification of the word.

The Chief Justice, in the 2d volume of his Life of *Washington*, p. 327, speaking of the character of the American troops, at an early period of the revolutionary struggle, observes—"A spirit of *insubordination* seemed to pervade the whole mass." In page 366, referring to the condition of the American army in Canada, under the command of General Sullivan, he observes, "the whole were in a state of total *insubordination*."

The word is employed repeatedly by the very able and accomplished gentleman, who prepared, as counsel, the defence of Lieut. Kennon. In p. 75 of the report of that case, he says, "I do not believe I am an advocate for insubordination. If one expression of that character can be found in my letter, I merit punishment, and will patiently endure it." In p. 86: "The testimony which this Court has deigned to afford me by their evidence, permits me to say, and to say proudly, that I have never dishonored it by one act of insubordination, or the smallest departure from duty." In p. 91: "Discipline is exposed to two foes, coming from opposite quarters, and assailing it at different points. Insubordination, which founded on man's natural impatience of control, often leads the inferior to resist necessary authority, &c." Again, in the same page; "If insubordination, in its restlessness, has sometimes raised its arm against rightful authority, &c." And in p. 93: "I venture to anticipate such a decision as will remove this unfounded opinion, maintain the true discipline of the Navy, and convince all grades of service that, though insubordination will always receive its merited punishment, oppression will find neither countenance nor impunity." On the same trial, the sentence of the Court, drawn up by the Judge Advocate, bearing the same name with the learned Counsel, whose ingenious criticisms have given occasion to this, I fear, tedious examination, and, as I understand, nearly allied to him, contains this sentence: "The Court cannot, by its silence, give sanction to sentiments, which, though, clothed in the

mantle of a defence, are calculated to diffuse principles of insubordination in the Navy."

A single reference to an English work will be sufficient. Mr. Tytler, whose learning has been highly commended, and whose authority has been recognized by the learned counsel, in p. 86, 7, of his treatise, says, speaking of Cromwell: "Finding that the whole army would be speedily in a state of anarchy and total insubordination, he determined, by a daring exertion of power, to remedy this alarming disorder."

After these citations, I feel myself fully warranted in saying, that if the word *insubordination* had been employed instead of the phrase *insubordinate conduct*, no possible exception could have been taken to it, either as "a solecism in language," or indefinite in its signification. I will respectfully submit to the Court whether it is possible even for the microscopic perceptions of the learned counsel to distinguish the difference between them. The signification of both is the same, and the obvious meaning to be attached to either form of expression is, such conduct as is wholly unsuitable to the relation which subsists between the person guilty of it, and his superior in rank and authority.

As has been already intimated, my object in multiplying quotations, has been not merely to shew the propriety and legitimacy of the expression employed in this charge, but also to establish the next position upon which I shall proceed to make an additional remark, that subordination is a high military duty, and insubordination a high military offence. It has been shewn that, by the 1st article of the regulations for the government of the Navy, all commanders of vessels, &c. are strictly enjoined to shew in themselves a good example of virtue, honour, patriotism, and subordination.—Why this injunction, if those to whom the example is set are not bound to follow it: if insubordination or insubordinate conduct be not a military offence? To require that the military law should specially enjoin subordination, or prohibit insubordinate conduct, would be as wise as to require that a particular statute should be passed, specially forbidding the violation of any law, and requiring obedience to law. Every citizen, independently of special enactment to that effect, by entering into the social compact, by the very act of becoming a member of the community, engages to obey the laws of that society to which he has attached himself. In like manner, every soldier, by connecting himself with the service, assumes upon himself the obligation to perform the military duty of subordination.

A man accused before a court of common law, or before a Court Martial of treason or murder, may with equal shew of reason demand to have the particular statute pointed out, which prohibits those high offences. None such can be produced. In the law of God is found the prohibition "thou shalt do no murder;" it has not been introduced into any statutory code of social or municipal law, with which I am

made me a reluctant apology, and publicly recalling it after he had obtained all the advantages resulting from a reluctant apology made to me." "By having used towards me, in a public print, a term which is seldom applied to other than pick-pockets, rogues, gamblers, &c." Surely if these specifications are not utterly illegal, from their vagueness and generality, from the looseness of their references, and the uncertainty as to the real ground of accusation, those, now under consideration, must be beyond reproach. The sufficiency of those charges, is established by the authority of Captain Porter, who drew them—of the Court, which tried the accused upon them—of the Department, which directed such trial, and approved the proceedings in both cases.

The fourth specification is supported by the same high authority.

The fifth admits of reference to precedents to support it equally unobjectionable. I shall cite but two. In the case of Captain Shaw, already referred to, the accused was found guilty of so much of the eighth specification as alleges "that Captain Shaw, contrary to his duty as an officer, did expose to *view, and suffer* Chaplain Cheever Felch and other officers of the Navy, *to examine* and peruse his official communications with the Navy Department." For this offence was he punished. If that be a military offence, cognizable before, and punishable by a Court Martial, how far more reprehensible is it to submit orders and instructions from the government, not merely to one or two brother officers, but to publish them to the world, through the medium of a pamphlet and the public Gazettes. I shall trouble the Court with a reference to but one more authority on this point—it will be found in the thirty-fourth and thirty-fifth pages of the report of the trial of Lieut. Kennon, where it will appear that Captain Porter, under examination as a witness, expresses his decided opinion, that it is highly improper to publish orders received, even from a superior officer in the service, and that he would not commit such an act.

The foregoing references, are so completely decisive upon another point, raised by the accused on this occasion, viz: that this specification is vicious, inasmuch as it embraces so large a period of time, within which the offence is charged, to have been committed, that it will be unnecessary to examine that question further. In both the cases of Lieutenants Abbot and Kennon, the offences are charged to have been committed "within a year now last past." In the present case, this specification charges the publications to have been made between the first day of October, 1824, and the fifteenth of June, 1825. If, in the cases cited, the specifications were right, in this, they cannot be wrong.

It will not be denied, that the language of our Naval code, is in some respects, loose, vague and inaccurate; and that the defects of the system are numerous and important. Vague and inaccurate, however, as it confessedly is, it contains one sweeping clause, sufficiently comprehensive, to embrace this charge, and each and every of the specifications under it. "All crimes, committed by

own advantage. If then the accused had called for such a detail, Mr. Tytler says he may, and the Court had deemed the present case in which he was entitled to a more particular specification of the facts designed to be given in evidence, such detail might have been furnished without any violation of the law. It is understood that precedents of this kind exist in our own service, and if none has yet been established, it would have furnished no valid exception to the application.

I shall now briefly proceed to cite a few cases in which this generality of charge has been allowed without exception. In the case of Captain Shaw, the second charge was "unofficerlike and ungentlemanlike conduct." In the case of sailing master James B. Wright, the charge was "unofficer like conduct." In the case of Lieut. Benjamin Richardson, the charge was "conduct unbecoming an officer and gentleman." In the case of sailing master Daniel Dobbins, the charge was "ungentlemanly and unofficerlike conduct." In the case of Midshipman Payne, the first charge was "defamation of character," and the second "unofficerlike, ungentlemanlike, and scandalous conduct." These cases are sufficient to shew that such a charge as has been preferred in the present instance, is as well established by precedent in our own service, as I have shewn it to be by a reference to writers on military law, of the highest authority and respectability.

It is however, to take an imperfect and incorrect view of this question, to consider the charge as perfectly insulated, and standing by itself. Connected with the specifications, which point out the particular instances in which the conduct of the accused is alleged to be insubordinate, and unbecoming an officer, he could scarcely have been induced to suppose that the particular dress in which he might choose to appear, the fashion of wearing his sword or hat, or the other minor directions from fashion, or the common routine of society to which reference has been sportively and facetiously made, could have been intended as the particular instances in which he had rendered himself amenable to this charge. All the vagueness and indistinctiveness alluded to by the counsel, vanish when a reference is made to the particular facts stated in the specifications of this charge. It is not by the charge alone, but by the charge accompanied by the specifications, that this point is to be determined.

To these specifications I shall now recur, and submit to the consideration of the Court a few remarks upon the particular exceptions that have been urged against them.

The first specification charges the accused with writing, and transmitting to the President of the United States, and to the Secretary of the Navy, the letters therein referred to, which are alleged to be of an insubordinate and disrespectful character, thereby violating the respect due from every officer in the Navy to the head of the Department, impairing the discipline of the service, and setting a most dangerous and pernicious example.

It is objected to this specification, that it does not set out the language alleged to be disrespectful, and that it does not charge any offence, cognizable before a Court Martial. It is somewhat singular that such an exception should now, for the first time, be presented to the consideration of a Court Martial. In the case of Lieutenant Abbot, the third specification is in the following words: "In that he did, during the time, on the station aforesaid, on or about the 11th day of January, last past, address a letter to the Secretary of the Navy, covering a communication written in his own hand writing, or by his direction and request, containing numerous false, scandalous, and malicious charges, against his superior officer, Captain Isaac Hull, calculated to deprive the said Captain Hull of his honourable fame." Here a letter is referred to by its date only, as containing charges of a very serious character, against the individual therein mentioned, but not a word of that letter is recited in the specification. The charge and specifications, in that case, were drawn up and signed by Captain Porter, in his official character as Navy Commissioner.—The Court, consisting of members, of whose intelligence and capacity, it would, on this occasion, be indelicate to speak, as three of them are now sitting on this case, tried Lieutenant Abbot, found him guilty, and sentenced him to be punished on this specification. Neither the accused, nor the very eminent counsel concerned in his behalf, William Sullivan and Samuel L Knapp, Esquires, ever conceived that it was necessary to set forth those passages in the letters which were deemed reprehensible; and it escaped the observation of the Secretary of the Navy, now one of the judges of the Supreme Court of the United States. If the objection in the present case is sustainable, with how much propriety and force might it not then have been urged? So, in the case of Lieutenant Kennon, in which also the same prosecutor preferred the charges, and, on the trial, of which three of the members of the present Court sat, the first specification charged the accused in a still more vague and general manner, than Captain Porter is now charged, "by falsely and maliciously publishing, in the Norfolk and Portsmouth Herald, of the 13th of December, and in the column dated the 12th of the same month, a letter purporting to be from me to him, when I never wrote such a letter." It is true that all objections arising out of defects of form, are, on that occasion, distinctly waived by the accused, who rested his defence exclusively upon the broad denial of the fact, but no intimation was given by any one, that such a specification was deficient in that particular. So in the case of Midshipman Payne, under the general charge before mentioned of "defamation of character," the specification was, "that he did on or about the 2nd of December 1821, send or deliver to Commodore Jones a letter, containing a number of charges, charging Midshipman Purvyance with theft, cowardice and other disgraceful acts." In all these cases, whether because such an exception never occurred to the accused as sustainable, or because they preferred meeting the charge in the broad basis of fact, no such technical objections were urged

now constitute precedents of high authority, and their is increased by the high rank of the accuser in the two first he exalted character of the Court by which they were tried, e eminent abilities and legal erudition of the counsel, employ- he accused.

second specification contains the charge of publishing to rld, what purports to be the proceedings of the Court of In- without the authority of the Executive. Whether an officer guilty of insubordinate conduct, and conduct unbecoming his , in making an appeal to the nation, and endeavouring to ess the community with the merits of his case, and to fore- iblic opinion, while that case is undergoing the examination nsideration of the Executive, may be submitted to this or her tribunal. The pernicious consequences that may re- m such a step, cannot escape the notice of the most super- bserver, and can scarcely be exaggerated in the imagina- the most timid.

his be reprehensible and erroneous, still more must it be to an inaccurate report of such proceedings. Whether such racies be deemed trivial or important, is a matter of subor- consideration. The liability to fall into error, though in- ntly, affords one of the most conclusive reasons to shew propriety of any such unauthorized publication.

, however, alleged that the inaccuracies should have been ed. The authority of Tytler has been already referred to, purpose of shewing that a charge is not vitiated by being d in general language, and unaccompanied with any speci- , and the inference is irresistible that, if a specification is it is not an essential defect that it does not specify the par- inaccuracies which are contained in a publication specially d to. The first specification, in the case of Lieutenant Ab- epared by Captain Porter, is in the following words: "In oved by a spirit of envy or base motive, he hath, upon the station, and within a year, now last past, scandalously at- d to take from his superior officer, Captain Isaac Hull, his ame." The second, "In that he has, during the time, and station aforesaid, made numerous scandalous and false insin- against the official character and conduct of his superior offi- pt. Isaac Hull, calculated to stamp his name with opprobrium army." In the second specification in the case of Lieut. Ken- e accused is charged with "having, within a year, last past, ously used base means for defaming my character, to wit: by ing, or causing to be published, in the Norfolk and Ports-

in proper form with a paper, which, with the exception of t
ters in one of the words, was a literal transcript of the charg
had been read. In giving the date of one of the letters allege
insubordinate and disrespectful, the copying Clerk had inadv
ly dated it the *thirtieth* instead of the *thirteenth* of April. N
variance has been, or it is believed can be, discovered.

As regards the right of the accused to have a list of the wi
furnished him, it is wholly denied. That such a doctrine
down by some of the writers on Courts Martial is conceded, a
bably this practice may prevail in the army to some extent, I
apprehended that it is wholly unknown to the Navy practi
the high authority of Sir Charles Morgan, the distinguished
Advocate General of Great Britain, is decidedly against it.
xii of the advertisement to the 3d. Edit. of Tytler, that expe
gentleman says, "I have never understood it to be the duty
Judge Advocate in all cases to furnish a prisoner, previou
trial, with the names and designations of the witnesses, by
testimony any act objected against him is expected to be prove
on the other hand, do I consider that it is requisite for the pr
to furnish the Judge Advocate with the names of any other wi
es than those whom he wishes to be officially summoned. I
such communication might possibly in some instances lead to
venience on either side." The Navy articles are wholly
upon this subject. They require that he shall be furnished
copy of the charges and specifications, but do not enjoin t
shall be furnished with a list of the witnesses. At all event
the objection is formally presented, it will be time to discuss
cide upon its validity.

Upon the whole I submit with great respect to the Cc
clear and unhesitating opinion that each and every one of the
cations, as well as the charge, are sufficient both in substance
form; that they do specify offences of a military character for
the accused may be arraigned and tried before a Court Marti

It is to be regretted that such a discussion should thus p
turely have been required. Every objection now taken could
been taken with equal efficacy and propriety in the defence
would then have been analogous to the motion in criminal C
to arrest the judgment. The argument into which I have the
expectedly and with very limited opportunities for researd
consideration been driven, this full and distinct enunciation o
opinion, and the premature decision of half the case by the C
would have been postponed to a more suitable period. The co
pursued by the accused has however imposed upon me an ard
and responsible task, and I should feel myself unworthy of the
ation which I occupy, before this Court, were I to shrink from
discharge of any duty, however unpleasant or however irksome

DEFENCE.

?RESIDENT AND
GENTLEMEN OF THE COURT MARTIAL:

er having endured a long and mortifying suspense ; the frown defined indignation, and the anxieties of ambiguous censure, I experienced a sensible relief, from a public investigation pro- g a determinate issue ; which, in no event, can place me in a ion less tolerable than that from which it takes me. Even the measure that has been dealt me, in the manner and spirit of rosecution, both before and during the progress of my present is amply compensated, whatever be the event, by the oppor- r afforded me, of a full and open justification before the world ; specially, before a tribunal between the members of which ıyself, at least so much of intelligence and community of senti- exists, as to free me from the apprehension of receiving *less* justice at their hands ; and to acquit me, in their minds, from ıspicion of appealing to their favour, for any thing *more* than e. If preparatory censures have tended to wound my feelings, prejudice my cause ; if a stern and jealous inquisition, have :d every part of my professional character and conduct, where ınsitiveness of a man of honour, or the presumed defects of hu- 'railty, might be supposed to shrink from the searching point; ', taken unawares by the suddenness of the attack, or the novel- my situation, an excruciated sensibility may, for the time, have : through the guards, that should have preserved me unmoved elf-balanced in mind and temper ; yet after all, I bow, with hu- ' and experimental conviction to the moral system of compen- ıs, that bringeth good out of evil : for innocence, made but the manifest and clear, from the severity of its trials, is the bright sion, that might have animated hope, and endued me with the /e fortitude of endurance, through a longer and more penal of tribulation.

ıe accusations, which I am now to answer, present this singular 'e : while they branch out into two distinct classes of offence, ıost dissimilar and the most unequal, in the quality and degree : legal and moral guilt imputed, as in the importance and inter- ɔ the community, of the principles involved, and of the actions condemned or justified ; they all originate in the same source ; re closely connected by the causes, that have produced them ; y the passions and motives that uphold them.

ıe first branch of the accusation brings into discussion the most

important and vital principles of the high and awful sanc
which national sovereignty is to be maintained and vindic
arms : while the second hinges upon the minute punctilios
monious respect. That a devoted servant of the republic,
consumed the flower of his years, and the vigour of his life in
and, as he hoped, acceptable services ; who had looked fo
bation, if not honour, as his reward, for an unstinted exp
labours, privations and dangers ; so much the more disintere
however beneficial to his country, and to mankind, it prom
of the personal gratifications, which may laudably be soug
renown of more striking and brilliant achievements ; who
scious of having acted with the most implicit respect and
delity, to what he understood to be the views and instructio
superiors ; who, with wasted powers of life, but untiring
and zeal, had exerted, for the fulfilment of those instruction
utmost scope of their letter and spirit, whatsoever of efficient
a constitution worn and broken in the public service, had le
that such an one should have been somewhat sore and impat
der rebuke, that came like a portent and a wonder, upon hi
ished senses, was far more natural, than that complaints of
struction and injustice should have been interpreted into disr
and free, but decorous remonstrance treated as little less t
tiny.

In my justification against these charges, I must regret
cessity of occupying a larger portion of the valuable tim
Court, than any intrinsic difficulties in the questions th
might possibly have required. But the terms in which the
have been framed, their often complained of vagueness an
tainty, as to the nature and degree of the offence intend
charged—the mystery observed as to the application of
and circumstances given in evidence, to the gist of the acc
and the defect of any advertisement of the points intended
sisted on, in the prosecution, or that were supposed to requ
cidation in the defence. All these circumstances compel
traverse a wide field, as well of conjectural as of obviou
cation.

Before I proceed to discuss any matter of fact or law, put
by the first charge, it may be useful to obtain as distinct an
standing, as practicable, of its terms, and of the nature an
of the guilt imputed by it.

The general head, under which the offence intende
charged is classed and characterized, consists of two mem
first, "disobedience of orders;" second, "conduct unbec
officer." The first, doubtless falls under a general descri
military offence, common to every organized body of milita
in the world ; but, in every military code, by which such a
may be punished, the character and functions of the offic
whom the orders are supposed to emanate, and the nature
orders are usually defined with all reasonable precision. In

lth of our Naval articles of war, this species of offence is de-
in terms nearly equivalent to the corresponding articles in the
and military codes of Britain, (*a*) and in our own military ar-
of war. (*b*) Our 5th Naval article of war, is in terms restrict-
the orders of a *commanding* officer, when preparing for, or
; in, or actually engaged in battle. But the 14th article, con-
in terms somewhat more comprehensive, enacts that "no
or private shall disobey the lawful orders of his *superior* offi-
strike him, &c. while in the execution of the duties of his
" The punishment of the offence, in either of its modes or
s, is "death, or such other punishment as a Court Martial
nflict." Then, if by the "disobedience of orders," here
d, be intended any offence known to the Naval articles of
nd punisbable under them, it implies that I had received,
ome *superior* officer, in actual command, either while engaged
ut to be engaged in battle, or otherwise "in the execution of
ties of his office," some order which I had disobeyed, and so
me within the danger of a capital offence, as every military
e is denominated, which is punishable either with death or
ring, though it be left to the discretion of a Court Martial to
any less punishment. When this general charge comes to
uced into particulars, in the form of a specification, *no orders*,
commanding or forbidding me to do any act whatever, are
th, either in terms or in substance. No commanding or su-
officer, from whom they are supposed to have issued, is
named or described. The specification simply sets out the
and insulated fact, of a certain invasion, by force of arms,
he territorial sovereignty of Spain, accompanied by *divers*
of hostility against the *subjects* and the *property* of that pow-
id instead of any averment that, in so doing, the orders of a
nding or superior officer had been disobeyed, the conclusion
specification branches out into a "contravention of the *con-*
n of the United States, and of the law of nations, and a viola-
instructions from the *government* of the United States." Now
er any "*contravention* of the *constitution* or of the law of na-
" not involved in a disobedience of military orders, be an of-
cognizable, under this charge, by a Court Martial; or whether
l *instructions* from the Government be identical with the *or-*
f a commanding or superior officer; and a *violation* of such
tions equivalent to a *disobedience* of such *orders;* are ques-
of grave import; and will doubtless, in their due order, re-
the deliberate consideration of the Court. At present, how-
we are endeavouring to ascertain the essential character and
of the offence, actually intended to be charged—its *legal* at-
es and consequences may be separately considered.

McArthur, p. 275, art. 11, p. 277. art. 22, p. 278, Mutiny-act, sec. 1. p.
lilitary, art. 3, 4, 5.

Art. 9.

As to the second member of the general charge, "conduct unbecoming an officer," whether it be intended to describe a mere incident to every act of military disobedience, or to impute some gratuitous and superadded circumstance of aggravation, in the mode and degree of it; and to inflame the guilt of simple disobedience, by some wanton abuse in the manner and circumstances attending the commission of the act, as in the "divers acts of hostility," said to have been committed "against the subjects and property of the King of Spain," are questions left in the characteristic obscurity, and uncertainty, which have veiled the "head and front of my offending," from any distinct view of it, that might have enabled me to perceive or to divine its *extent*.

I shall hold myself, however, completely dispensed from any obligation or necessity, to pursue further the labyrinths, into which this indefinite member of the charge might lead us: since, I think, if any proposition can be made clear by human evidence, it would be impossible, for the most vindictive accuser, to find any pretext in the facts of this case, for pushing the charge beyond a *simple* departure from the letter or spirit of the positive rule of action, supposed to have been prescribed to me; whether it be the Constitution of the United States, or the law of nations, or any instruction that establishes the law or rule which I am supposed to have "contravened," or "violated." If I have offended at all, it is in the single transgression of that law or rule: "the head and front of my offending hath that extent—no more." I shall, therefore, leave it to the Court, without further remark, to decide, from the evidence, whether it were possible to have conducted a military operation on neutral territory, with a more scrupulous regard to all the rights of person and property, which such an operation could, in the nature of things, have left inviolate. If the act were unlawful in itself, I must abide the consequence; but it lies not, I think, within the compass of human ingenuity or malice, to contend, that the act, as being either lawful in itself, was stripped of its legal sanctions, and had its quality of lawful changed to unlawful; or, as a sheer trespass, that it was inflamed beyond its intrinsic character and degree, by any wanton aggravations or abuses, in the manner and circumstances.

The question then is presented in the simple form: whether the act complained of were, under the circumstances and inducements that led to it, an infraction, either of the *Constitution* of the United States, or of the *law* of *nations*, or of my *instructions* from the government of the United States; and, in that order I proceed to consider it.

Whether a belligerent operation, in the course of an authorized war, be constitutional, or not, is a question which, if it have any significancy, or be capable of any solution, may be considered as nearly identical with the other question suggested by this charge, namely: whether it be consonant to the law of nations, supposing the law, here intended, to consist of the conventional or customary rules,

which civilized nations have agreed to control, and mitigate the ocity and the calamities incident to a state of war, and which consti- e what is called the law of war. All that the Constitution of the ited States has to do with the matter is, that it has communicated the general government the unqualified jurisdiction of war and ace. The power to carry on war, offensive or defensive, in- lves, in its terms, every right, immediately or remotely, inciden- to that state and condition of human society.

In what these incidental rights consist, must be determined by known or necessary conditions and consequences of war. atever of these, the most comprehensive signification of the n may embrace, are necessarily constitutional; but the law war, as it is called, is, in many respects, so vague, and so de- ident upon arbitrary views of necessity or expediency, to be ged of by hostile parties, and to be justified by an infinite and alculable variety of peculiar circumstances, that it scarce fur- hes a definite or intelligible rule, by which it may be predicated any military operation, that it is either constitutional or unconsti- ional. The only constitutional question, therefore, is, whether war itself were authorized? that is, whether commenced or ried on by that authority, to which the constitution has exclu- ely delegated this high power.

This brings us to the consideration of the second test, which it uggested, should be applied to my conduct, on the occasion in estion; and that is the law of nations.

That branch of public law, which determines the correlative ats and duties either of the hostile belligerents, as between them- ves, or of neutrals and belligerents as between themselves; or allies or co-belligerents, as between themselves, constitutes a umnious code, which is perhaps, the theme of as much undeter- nate controversy, both as to its principles and its authority, as that ever undertook to prescribe rules of human conduct; and would scarce be practicable to deduce, from it, any definite rule, licable to the infinitely varied circumstances of actual war; and which a military officer might be condemned, for a presumed lation of the law. In this case, however, 'tis not necessary to able the Court with any reference to the more recondite and oretical definitions of general rules; because, in so far as my duct depends, for its justification, upon such rules, it may be erred to an authoritative and practical exposition of them, as licable to the particular circumstances under which I acted. e rights and duties, incidental to a state of war, as it affects ry party directly or indirectly concerned, have been the subject such frequent and elaborate discussion, in our intercourse with eign nations; and have received such lucid definition and such ious illustration from our most eminent statesmen; that we may said to have compiled and digested, from the best authorities, and most enlightened views of the subject, a system of public law, n these topics, which, if it be not generally adopted by the fa-

mily of civilized nations, as the moral and political influence of our example extends, may, at least, be received, among ourselves, as superseding, to every practical purpose, a reference to the more general and less applicable doctrines of elementary writers. Our discussions with the powers of Europe, while they were belligerent and we were neutral, have settled, for ourselves, the positive rights of neutrals; and our more recent discussions and collisions, with one of those powers, while we were belligerent and she neutral, have equally well settled the positive *duties* of neutrals. The rule to be deduced from the latter, is so much the more intelligible in its doctrine, and obvious and practical in its application, since it has grown out of collisions and discussions of the belligerent rights of the United States, as correlative to the neutral duties of this very power, Spain, whose territorial sovereignty I am charged with having violated; and more especially of her neutral duties, as determined by the peculiar circumstances of her colonial dependencies; in one of which the scene of my supposed transgression is laid.

The right of a belligerent, in the prosecution of a *lawful war*, to involve, in all the practical consequences of war, *such parties, as*, not being enemies, assist the enemy by active or passive co-operation, has been so clearly expounded in the doctrines of public law, and illustrated in the history and practice of our own Government, as to leave but little to be said on that subject, at this day. Whatsoever ground of controversy may remain, as to the extreme limits, or necessary modifications of the rule, depends upon principles, entirely foreign to any question applicable to the present case. In so far as the doctrine or practice is now in question, it is placed beyond doubt or controversy, by the concurring authority of all the most approved expounders of public law; and, above all, of our wisest statesmen, who have been called upon so frequently to unfold its principles, and apply them, in practice, to the actual condition and relations of the country.

The actual extent of the correlative rights and duties of such parties, and the circumstances that may justify the treatment of them as enemies, are, in some degree, determined by their relative position; either as strictly neutral, or as allies embarked in a common cause: the positive duties of the latter being, of course, increased both in number and obligation; and many acts permitted to a neutral, being unlawful in an ally.

If a neutral, through perfidy, partiality, or weakness, (and it is perfectly immaterial which,) permit, or be compelled, by superior force, to suffer his territory to be seized by one belligerent or, in any manner, used to the annoyance of another, the latter has a perfect right to invade that territory, and use it, and all the means and facilities of war, that it affords to the same extent that his adversary is permitted to use, or has, by force, usurped the same. The territory, the inhabitants, and whatsoever else there may be there, which have been thus converted into means of our annoyance, are, for the time, impressed with the character of enemy, and may be treated accordingly.

It is one of the most ordinary and undisputed and least harsh of these rights, to pursue an enemy into neutral territory, if he retreat there for refuge, or take his station there to be ready to sally forth and attack his adversary, as occasion and opportunity may serve. If this abuse of neutral territory proceed from the weakness of the sovereign, and his unability to protect it from violation; the rule is, that at the point and in the degree that his authority ceases to be exerted, with practical efficacy, that of the party injured by its relaxation commences and extends. In the emphatic language of Mr. Adams, "the right of the United States, can as little compound with *impotence* as with *perfidy.*" All this infers no hostility against the neutral; but proceeds upon the great principle of self defence; which justifies a belligerent to disarm his adversary, turn upon him his own weapons, and deprive him of the permitted or usurped means of annoyance There may be occasions where the misconduct of a neutral sovereign might expose him to the resentment of the belligerent sovereign, and make him an actual party to the war; but I here speak merely of those incidental rights of actual war, which effect him in his neutral character, and require not the decision of the sovereign will to authorize the enforcement of them, which are inseparable from belligerent operations, and are summarily exerted in the exigency of the moment at the discretion of the commander to whom the conduct of such operations is entrusted. "Of the necessity for which (says Mr. Adams, speaking of the invasion and occupation, by military forces of neutral territory, including its fortified places and garrisons, whenever the effectual prosecution of hostilities against the enemy, shall in the opinion of the general make it necessary) he has the most effectual means of forming a judgment, and the vindication of which is written in every page of the law of nations, as well as in the first law of nature, self defence. (*a*)

The principle is not confined to neutral territory, but extends to all the ramifications of neutral sovereignty, and to all the modifications of neutral property: for it is the same identical principle modified by circumstances, that authorizes naval commanders from the Admiral of a fleet, to a Lieutenant Commandant of a schooner or a barge, or even the Captain of a privateer, to seize upon the high seas, neutral ships carrying contraband, infringing a blockade, or committing other unneutral acts. In these cases the ships seized are good prize: but like the territory, (of which they are an emanation of sovereignty) they are also liable to temporary seizure and detention; as when found laden with enemy property. This practical exertion of belligerent rights upon the high seas, is in principle just as high handed an interference with the exclusive domain of foreign sovereignty, in order to repel open or insidious hostility in

(*a*) Vide American reply by Mr. Adams, to the Spanish note by Mr. Pizarro, on the subject of Genl. Jackson's invasion and occupation of the Floridas, being the letter of Nov. 28, 1818, from Mr. Adams, to our Minister at Madrid. 15 Niles Register, p. 372.

neutral guise, and by neutral means, as any analagous invasion or occupation of the actual territory of the same sovereign. The flag of a nation is just as inviolable an emblem of sovereignty, as territory: and the ship that bears it, is constructively a part of the territory, and just as much entitled to protection.

"There will need (to borrow again the language of Mr. Adams, the condensation and force of which, may dispense with other illustration) no citations from printed treatises on international law, to prove the correctness of this principle. It is engraven in adamant on the common sense of mankind; no writer upon the laws of nations ever pretended to contradict it; none of any reputation or authority ever omitted to insert it."

I cannot forbear however, adding to the domestic documents of our public transactions, by which both our belligerent and our neutral rights are so amply unfolded and accurately defined the authority of the venerable and illustrious Grotius; who may be stiled the father of the modern law of nations. In laying down the rule, by which neutrals may expose themselves to the treatment of enemies, he also recommends certain modifications of the strict belligerent right; not as necessary limitations or exceptions to the right, and which a neutral is entitled to insist on; but as being merely *recommended* by a spirit of moderation and humanity, and which a belligerent may disregard according to his own discretion, or his estimate of necessity or prudence under existing circumstances, without incurring the odium of violating the established rules of civilized warfare: and it may be satisfactory to the Court to see, by how many degrees my operations at Faxardo fell short not only of what strict right authorized, but of what the most beneficial construction of the right would have recommended, as within the bounds of moderation and humanity; 'tis also worthy of remark, that this author in the same passage here cited, illustrates belligerent as correlative to neutral rights by the known and conceded right to attack a ship manned by pirates, or a house occupied by robbers, although in that ship or in that house there may be many innocent persons whose lives are endangered by the attack. (*b*)

Such are the correlative rights and duties, as between belligerents and parties merely neutral. But their reciprocal rights and duties are infinitely extended when the parties assume the nearer and more intimate relation of allies embarked in a common cause.

An act perfectly lawful in a mere neutral, may be absolutely unlawful in an ally; and subject him to be treated as an enemy by the forces of the other ally. For instance, nothing is more lawful than for a neutral to trade with either or both of the belligerents; yet it is unlawful in the subjects or citizens of an ally, and exposes their ships and other property to seizure as prize; precisely as enemy property: and their persons to captivity and punishment. (*c*)

(*b*) Grot. de Jur. bel. & pac. B. 3. ch. 1. p. 4. (3. comp. Gro. p. 95. 6. 7.)
(*c*) Vid. Chit L. N. P. 11 Naide, 4 Rob. 251.

A nation is not bound to wait till the injury is actually felt, from the abuse of neutral or foreign territory ; nor even till an enemy appears, who may take advantage of its means, and convert it to purposes of hostility : but in case of imminently approaching and foreseen peril, tis lawful it seems to take military occupation of such territory, in anticipation of the injuries that may accrue from expected and future hostility. This is strongly exemplified by the conduct of our government, and the principles on which it was publicly and officially justified in the occupation of Amelia Island and Galveston, the one in the undisputed possession of Spain, and within the uncontested and incontestible limits of her then province of East Florida ; the other in the actual possession of Spain, and claimed as within the limits of her then province of West Florida, but within the contested limits of Louisiana. The military establishments at these places, in the hands of certain adventurers, acting under the authority, real or assumed, of some of the revolutionized provinces of South America, were suppressed by military force, and the places held by military occupation, till Amelia Island was restored by an arrangement with the Spanish Government.

Among the reasons for this strong measure, given by the President of the United States, in his justificatory expositions of its policy and necessity, one is that an extensive system of buccaneering throughout the Gulf of Mexico was about to be organized at those establishments, menacing the United States and the whole commercial world with all the horrors of piracy. (*d*) Then the apprehension of piracy, as the possible and imminent consequence of these obnoxious establishments, justified far stronger measures, and more decided acts of hostility upon Spanish territory than any committed by me in the course of flagrant war against actual pirates, who had established themselves in another part of Spanish territory, where the sovereign authority of Spain was equally relaxed ; where these pirates, with whom I was engaged in active hostilities, found shelter and associates with persons under the nominal allegiance to Spain, but who neither felt nor acknowledged her authority for any purpose but as a cloak to their villanies. The documents on this transaction of our Government, furnish strong illustrations of the extent to which the great and sound principles of self-defence authorizes either *corrective* or preventative measures operating upon neutral territory.

I now come to such of our public transactions, and the documents that illustrate their history, and the principles on which they proceeded, as bear the nearest affinity and the strongest analogy both in principle and in circumstance, to the conjuncture in which I was called to exercise a sound discretion in the practical application of these principles, to the actual state and condition of existing circum-

(*d*) Vid President's several Messages to Congress, viz. 2 Dec. 1817, 13, Niles' Reg. p. 237, Jan. 3, 1818, id. p. 338-9, and 26 Mar. 1818, 14 id. p. 100. Official Correspondence on the same subject, id. p. 169, &c.

stances: when, as a Naval commander, I was delegated to display the flag, and carry the arms of my country to remote regions; and there upon my sole responsibility, without other counsel than my devotion to her glory and prosperity, to fulfil the imperious duties of this high and most delicate of trusts, by upholding the just power, and vindicating the sovereign rights appertaining to her belligerent character, according to the laws and customs of war, and the dictates of military prudence: rights which I could neither abandon, relax, nor compromise, without diminution of her glory, and derogation from her dignity, nor without bringing contumely on her flag, and overwhelming myself with disgrace.

The principles established by the documents now adverted to regard Spain in her simple character of strict *neutrality*, without reference to her higher and more sacred obligations, or the corresponding claims upon her as an ally.

In the late war with Great Britain, in which the Indians of Florida took part against us, General Jackson was expressly authorized by President Madison to take Pensacola, *if it were found to* have fostered Indian hostilities by ministering to their wants, and affording them the means of annoyance. If, proceeds the order, as indited by Secretary Armstrong, the Spaniards admit into their towns, feed, arm, and co-operate with the hostile Indians, you must *strike* upon the broad principle of self preservation."

The principle thus concisely and forcibly enunciated, was developed and followed out to all its consequences and analogies, in the campaign of 1818, against certain Indian tribes of Florida, called Seminoles and Redsticks, who had commenced hostilities, and carried on the most savage warfare against our Southern frontier.—Spain being then just as much at peace, and in as positive a state of amity with us, as at any time since. She held the undisputed sovereignty of both the Floridas, where she maintained civil and military Governors, numerous garrisons, and fortified places. But the extent of country over which she exercised any practical sway, was very inconsiderable, in proportion to the extensive regions occupied by numerous tribes of savages and outlaws, who nevertheless inhabited a country under her nominal sovereignty: and the physical power of each was in the same proportion.

When General Jackson, in the winter of 1818, took command of the army assembled to repel the incursions of the Indians, he found his predecessor, the second in command, General Gaines, in possession of certain limited and defined instructions for entering Florida in pursuit of the hostile Indians, if it should be found necessary to repress their inroads. The savage foe was soon driven to his fastnesses within the Spanish territory and jurisdiction, and pushed by his victorious pursuers to the vicinity of St. Marks, a fortress regularly garrisoned by Spanish troops, and being well ascertained by the General to have been a place of resort for the savages, where they obtained aid and comfort, and were abetted in their hostilities against our frontier, it was entered by our troops with violence, and held during the residue of the campaign. A British subject, domiciled

under the protection of Spanish laws, was executed as a spy
endiary, who had instigated the savages to hostility. (e.)
General then carried his victorious arms to Pensacola, the
of the Province, which was entered by our troops without
ion, the Spanish garrison having retreated to the neighbour-
t of Barancas. This last was instantly invested, and, after a
cannonade, was on the point of being stormed, when the
n Governor and his garrison entered into a regular capitula-
urrendered the fort, and were transported to Cuba. Thus,
ession of the capital, and of all the strong places of the pro-
it was treated as a conquered country: civil and military de-
nts were organized—the laws of Spain continued in force, the
vation of the archives provided for, accompanied by all the
arrangements usual after conquest. The stated provoca-
these acts of hostility, are the inadequacy of the power of
o resist the encroachments of the savages; the provisions
munition with which these last had been supplied, either
ed from the weakness, or granted from the bad faith of the
h authorities. And lastly, the interruption by the Spanish
nor, to the passage of supplies from New Orleans for our
up the river Escambia. The Spanish Governor hearing
eral Jackson's approach, had issued a proclamation, forbid-
in the most indignant terms, and threatening to employ force
d not immediately evacuate the country. This new and un-
ed *enemy*, says the General, was made to feel the impotence
threats. In the general orders and proclamation, setting
hese and other reasons for the measure, it is justified by the
and immutable laws of self-defence, as Spanish authority
not be maintained in Pensacola. (*f.*) Having thus overrun
anish province, expelled its garrisons, and taken all its strong
; and thinking with good reason, that Indian hostilities had
ffectually checked, the General retired from the field. But,
g in the course of the summer fresh accounts of renewed or
ened hostilities, and of continued abuses of Spanish territory
eans to our prejudice, he despatched an order to General
, directing him, if he should be satisfied of the fact of the In-
having been excited to hostility by Spanish agents and officers
St Augustine, and fed and furnished from that place, immedi-
o occupy it, and the garrison as prisoners. This order was
rmanded by the Secretary of War, not from any disapproba-
what had been done, or was about to be done; but because
cable arrangement had, in the mean time, and unknown to
al Jackson, been made between the two Governments, for the

'ide Gen. Jackson's Official Reports to the Secretary of War, 25 March,
il, and 5th May, 1818. Niles' Reg. vol. 15, p. 307, 308, 311.
/id. General Jackson's general order, giving detailed account of the
gn, dated Barancas, 29 May, 1818. His proclamation of the same
he capitulation of Barancas, &c. &c. Niles' Register for July, 1818,
p. 334—6. Also his letter to the Secretary of War, June 2, 1818, and
ocuments, id. vol. 15 p. 319—21.

restoration upon certain conditions of the Spanish posts already taken, with which arrangement it would have been altogether inconsistent to have proceeded with the capture of St. Augustine. All this was fully and satisfactorily explained to General Jackson. (g)

These proceedings became the subject of the most animated and spirited controversy between the two governments. It was also doubted by many and respectable citizens, both in public and in private life, whether the General had not transcended his authority, and exercised the power of war and peace beyond all constitutional limits; and it became the subject of long and serious debate in Congress. But his conduct in all its extent, was elaborately and victoriously justified by our government, in all its relations and departments, foreign and domestic. The complaints of Spanish ministers were triumphantly answered, and finally silenced by the official replies of the Secretary of State. The Messages of the President to both houses of Congress, explained and justified the grounds of the General's procedure, and the vote of the House of Representatives, adopted and confirmed the justification offered by the executive. (h) Against all which, there remained nothing to be set off, but an adverse report of a committee of the Senate, which has been suffered ever since to repose in utter neglect, notwithstanding the General at the next session presented a memorial to the Senate, remonstrating in free and decided terms against the course of investigation pursued by the Committee. as unfair, and against their conclusions as unsound in doctrine, and as resulting from partial and uncandid views of the subject.

Now let the principles so clearly deduced from these most authoritative precedents, be applied to my situation and conduct, as commander of the squadron in the West Indies, engaged in actual war against the pirates.

From a variety of causes, too obvious to be mentioned, the Spanish Islands in the West Indies were, for the most part, more destitute of any practical, steady, and efficient government and police, than the inhabited parts of the Floridas. The Pirates who sought shelter there, were not like the miserable savages of Florida, insulated and cut off from access to other quarters for relief, so as to be dependent on Spanish towns and garrisons for occasional supplies of provisions, arms, and ammunition. On the contrary, their enterprizing and successful piracies, and the accumulated plunder of land and sea, gave them influence and favour in the more barren

(g) Vid. General Jackson's order to General Gaines, 7 August, 1818;—his letter to the same, 10 August, 1818; and the Sec. of War's countermand to General Gaines, 1st September, 1818. Niles's Register, vol. 16, p. 80—1.

(h) Vid President's Message to Congress, March 25, 1818. Niles' Register for April, 1818, vol. 14, p. 100.

President's Message, November 17, 1818, id. vol. 15, p. 213. Note from the Spanish Secretary of State to the American Minister at Madrid, 29th August, 1818, and the reply of Mr. Adams, 23 November, 1818. Niles's Register, vol. 15, p. 367, 9, &c. General Jackson's Memorial to the Senate, id. vol. 18, p. 329.

thinly inhabited districts, and in some of the more considerable
ns and settlements. While their numbers, their resources, and
ir ferocity, overawed and intimidated those who were not seduced
participation in the spoils of piratical enterprise. When the hot
suit of our cruizers had driven them from the sea, and destroyed
:heir vessels capable of keeping the sea, they retreated into va-
is parts of Cuba and Porto Rico; in some places banded theme
es against the local authorities, and effectually defied every ef-
to reduce them. In other places, they assumed various
uises, as fishermen, dioguers, pedlars, &c. &c. As fishermen,
built huts and villages upon the coasts of these two islands,
kept up a constant intercourse with the inhabitants, from whom
as extremely difficult to distinguish them. The innumerable
, inlets, shoals, and harbours, about these islands, enabled them
onceal the boats in which they nightly sallied forth from their
ls, and committed innumerable piracies, as well upon the high
, as in the towns and settlements, on the neighbouring coasts.
y then retreated with their plunder, to their secret haunts; re-
med their disguises, and eluded detection and pursuit. They
e occasionally, however, detected—their huts and villages, with
heir boats, fishing tackle, &c. burnt and destroyed. Several
inces of these descents upon the coasts of Cuba and Porto Rico,
he officers of my squadron, are found in the official correspon-
:e and reports, now before the Court:—especially in my report
ie Secretary of the Navy, and in the report of Captain Cassin,
Lieutenant Commandant Kearney to me, in the spring and sum-
of 1823. (*i*) This state and condition of the Spanish Islands,
not only perfectly notorious, but has been officially ascertained
promulgated, and is now matter of authentic history; for in the
sident's Messages to Congress, on the 2nd December, 1823, and
4, and the reports of the Secretary of the Navy, on the 1st De-
ber, in the same years, accompanying those messages, all these
are fully detailed; the good dispositions of the colonial govern-
at least of the Governor of Cuba, are acknowledged; and the to-
tion of the piratical establishments within their jurisdictions ex-
ied, by the weakness of their means, and the relaxed state of
authority So strong were these representations, that at the
session, a bill was introduced and seriously debated, authorizing
ockade of the Spanish ports in Cuba, and Porto Rico: the lat-
having been designated in the official communications from the
ident, as affording the most numerous haunts for pirates.
s to Faxardo, you have it clearly proved how notorious were
town and district, and an extensive tract of country around, as
nost pernicious haunts for pirates, including two other noted
es, on the same coast, called Naguaba and Bocca del Inferno, from
) 25 miles from Faxardo, and equally notorious for the resort of

(*i*) Vide documents accompanying the President's Message to Congress, 2
mber, 1823, p. 156, 157, 174.

pirates, and as receptacles for their plunder. It was to the latter of these places, known by so characteristic an appellation, that the crew of the piratical vessel, driven on shore by Lieutenant Sloat, attempted to retreat, as reported in his letter to the Secretary of the Navy, of the 19th March last. I did not, however, act upon the sole authority of report and notoriety; more than sufficient as they are when sufficiently credible to justify military movements. It was not till an American merchant, resident at St. Thomas, had been robbed of property to a considerable amount, in one of these marauding expeditions, traced upon credible information to Faxardo; nor, until after an officer of my squadron, who had landed in the most peaceable and inoffensive manner, to inquire after the pirates and the plunder, had been treacherously seized, and disgracefully treated at Faxardo, that I determined to land and make an impression upon that place. I presume no military or naval officer is to be blamed for acting upon credible and circumstantial information: he is not to be expected to wait for either legal or moral certainty of proof. The necessity and propriety of the measure, and the correctness of the information upon which I proceeded, are amply confirmed. 'Tis in proof that the spontaneous opinion of the merchants of St. Thomas, and of the whole squadron, without any particular communication from me, was clear and decided, not only for the necessity and propriety of the measure, but that it must and would be executed. My intentions were as clearly inferred from what circumstances decided, that they ought to be as if I had fully declared them. The whole course and event of the action entirely confirmed every anticipation. I no sooner approached the harbour under the most unequivocal demonstrations of the real character of my squadron, than I found a party, no wise distinguishable in arms, equipment or appearance from the pirates usually found on shore, and who, in the instances before mentioned, had attacked Captain Cassin, and Lieuts. Kearney and Newton, by whom their villages and huts had been burnt and destroyed.

This party stood ready, with two guns, on a point of rock, and the instant I had anchored, without one act of hostility or menace on my part, and without any previous parley on theirs, commenced hostilities by training the guns on my nearest vessel, and then on the boat which was approaching the shore; and nothing, I presume, but the perplexity in which they were kept, between the two objects, prevented them from firing on us; they dispersed before our party reached their battery, the guns of which we spiked. We found the village entirely deserted: no human being to be found, with whom we could hold parley. When it is recollected that I had established a good understanding with the Governors of Cuba and Porto Rico; was acting in concert with them, had remitted to their jurisdiction, pirates whom we had taken, and who had been punished by the local governments; when all this was known and notorious, how could I, in reason, account for these demonstrations of hostility, immediately on my approach to the harbour of Fax-

l for the flight of the party, and the desertion of the vil-
/as I not authorized, nay bound, to conclude from the cir-
es taken in connexion with the infamous character of the
t it was a piratical establishment? Did it not require, at
further investigation, and that I should proceed to examine
ate of things at the small town of Faxardo, only a mile or
the harbour? Nothing I can think can exceed the cau-
noderation with which I proceeded. A flag was sent in
/ith a letter, addressed to a sort of inferior magistrate call-
alde, the only officer except a very low and disreputable
lled the Captain of the Port, who was to be found there.
llowed the flag into the interior, the most perfect order
among our troops; and no whisper of complaint has been
the slightest injury to the persons or property of the in-
. The further we advanced, new circumstances of suspi-
nfirm all we had heard, and all we had inferred from what
l at our first landing arose. There was the same irregular
ge of armed men; equally equivocal in character and ap-
, as those who had been dispersed at the battery, without
e ordinary badges to distinguish them as belonging to the
ent of the country; and, by their causeless hostility, justi-
worst suspicions of their character and intentions. When
Alcalde, accompanied by some of the better sort from the
excused himself, for his conduct to Lieuts. Platt and Rit-
under *compulsion* from *others:* and this was repeated to
att, by the interpreter and another person in the Alcal-
. The nature of the person and the persons from whom
ded were not explained; and as Lieut. Platt declares there
some strange mystery about the transaction. The myste-
perhaps, be very satisfactorily cleared up; when it is re-
Lieuts. Platt and Ritchie, at their former visit, had at first
eived by the Alcalde with civility: but that the rabble were
y exasperated against them. From all which connected
infamy of the place, and the very suspicious conduct
arance of the people whom we encountered, it might rea-
enough be concluded, that the pirates were strong both in
and influence, and had overawed and held in subjection the
e functionary, who bore the badge without the substance
larly constituted authority: which it would have been ab-
l derogatory to any government to have treated as qualified
nge the respect due to a sovereign in the person of his
tative.

was not here presented a clear case of "the jurisdiction of
sing at the point where her weakness failed to maintain her
"?

possible distinction between the hostile appropriation of
territory and Spanish means, to our injury, by the pirates
stance, and by the Seminoles and other savages in Florida?
every circumstance and every reason that were admitted

as the most triumphant justification of the course pursued in the campaign in Florida, are here more clear and pronounced: and yet because I merely displayed my force on Spanish territory, by way of intimidation; exacted an apology for the past, and promise of amendment for the future; and spiked two guns from which, on leaving the harbour, I should have been in eminent danger of a raking fire, from a lawless banditti; who might have secreted themselves from pursuit and punishment: for this have I been recalled in displeasure, and subjected to a rigorous and penal prosecution: notwithstanding the clear proof, now manifest to the Court, that the most beneficial consequences had resulted from this operation: that instead of producing any impediment to the service, from the ill will either of the authorities or inhabitants of the Island, it served to awe the disaffected, and inspire universal respect for our arms and character. From the subsequent correspondence of Lieut. Sloat, it appears that Governor Torre had been reported to have dropped some hasty expressions of anger; but *if he really uttered* such, it was a momentary ebullition; for his *letter to Lieut. Sloat*, of the 17th March last, sufficiently demonstrates his good will; and, indeed, contains warmer expressions of thanks for our exertions, than are to be found in any of his preceding communications. The effect upon the public in general was decided and instantaneous; indeed the encreased respect and confidence in the vigour, determination, and efficiency of our measures; and the consequent facilities likely to be obtained, in the pursuit of our object, exceeded all expectation. The public honours bestowed on Lieut. Platt, at Ponce, only 40 miles from Faxardo; and expressly on account of the share he had borne in the affair of Faxardo, may give some idea of the prevailing sentiment.

As I have said, nothing could exceed the astonishment with which I received an intimation of the displeasure of my own Government. The only apprehension I entertained, and the only circumstance having the remotest tendency to self reproach in the whole affair, were, that I had fallen too far short of the point to which my authority would have reached, and to which my duty under existing circumstances should have pushed it: and, at this day, if I were under trial for not having seized and garrisoned or destroyed the village at the harbour, and even the town of Faxardo, as pernicious pirate-nests; for not having arrested and made prisoners the people; or those at any rate who had made any demonstrations of hostility: I should have conceived myself in far more danger of censure, for having left undone those things which I ought to have done, than now, for doing those things which I ought not to have done.

My best, if not my only defence, in such case would have been the want of the force and the means necessary to give complete effect to the operation; and the eventual benefits resulting from the actual and more moderate operation.

It may possibly be doubted whether the pursuit and arrest of pirates on the high seas under a regular commission from a sovereign

power, and with the public armed force of the country, be a war or a mere exertion of the power of internal police for the arrest and judicial punishment of criminals. In short the want of a regular declaration of war may be insisted on.

'Tis a remarkable fact that what with the continually recurring wars with the Indian tribes, the Barbary States and more recently with England; not omitting what has been called the *quasi* war with France, in 1798; this country has enjoyed but very short intervals of peace since the formation of the Government: and yet there stands upon record but the single instance of a declaration of war in that against England on the 18th June, 1812. The constitution has vested in Congress, the exclusive power of declaring war, but they may also provide for the calling out of the necessary force to suppress insurrections and repel invasions: and they have executed this last power by a special act of Congress empowering the President to call out the proper force on such occasions. All our Indian wars with every characteristic and concomitant of the most regular *war* have resulted from the mere act of having placed at the disposal of the President a military force for the protection of the frontier, and to repel the hostile incursions of the Indians. The war commencing in this merely defensive operation, has resulted in all the incidental consequences, which we have seen exemplified in General Jackson's campaigns in Florida, and in all the preceding Indian wars; for none of them were commenced under any more formal declaration, or with any more solemn preliminaries, than that of a hostile invasion repelled by force; and of a defensive war pushed, in its consequences, to offensive operations; in order to make the defence effectual and complete. So the wars with the Barbary States were commenced in the same way: a naval force is placed at the disposal of the President for the protection of our commerce, against the Barbary cruisers, and the history of our Naval operations is too well known to this Court to justify me in taking up their time by recounting the captures by sea, the blockades, the menaced bombardments, the intercepting of enemy property in neutral bottoms, and all the other concomitants and incidents of the most regular of maritime wars which have resulted from this simple measure of defence. So the modified hostilities with France, limited as they were supposed to be, by the terms of the law that authorized them to a mere resistance of the abused right of search, and to the capture of such of their public or private armed ships as should be found committing aggressions upon our commerce, immediately blazed out, in all the ardor of a maritime war; unlimited in its spirit and extent but by the scarcity of objects, in the condition of the French marine upon which the valour and enterprize of our navy could be displayed. We did not wait 'till a French frigate or armed cruiser could be met flagrant with aggression: but in what place, condition or circumstance soever met, she was instantly attacked, taken, and held as lawful prize of war.

This war against the pirates in the West Indies, was just as for-

mally declared as any of our preceding wars by land or sea; except the late war with England: and carried with it all the concomitants and incidents of a public war; without regard to the form of the preliminaries, or the circumstances of its commencement. The machine once put in motion, was impelled by its own inherent energies; without the help of proclamations or other paper muniments.

A naval force was placed by a law of Congress, at the disposal of the President, to be employed in the most effectual way according to the best of his judgment, and under suitable instructions to the commanders, in repelling the aggressions and depredations of the pirates. (a) Under the authority of this act, and the instructions of the President, the war against the pirates was commenced and carried on. That it was a regular war against public enemies, and entitled not only to equal but to greater respect, from other nations, than ordinary wars, is clearly established by reason and authority. Pirates are not the enemies of one nation only, but of the whole human race; and all civilized nations are, or ought to be in league against them: there can in the nature of things be no neutrals in such a war. As I have before remarked, the rights of war in general, seem to have been derived for the most part from the analogies of war against pirates. We find that the President, in his message to Congress, explaining and justifying the conduct of General Jackson, towards the Spanish authorities in Florida, enumerates their encouragement of buccaneering, as one of the enormities which has forfeited their neutral character; and General Jackson himself, in his official correspondence, justifying the apparent severity of his proceedings against persons claiming Spanish protection, can find no more emphatic reprobation of their character, as placing them and their abetters out of the pale of the law of nations, and justifying every extremity against both than to denominate them land pirates. Grotius, as I have remarked, infers belligerent rights, in regard to third parties, not being enemies. from the analogous right to destroy pirates, though to the danger and probable damage of innocent persons.

If the question rested on general reason and authority, it would seem to be settled. But I have a stronger and more practical warrant, in the very instructions which I am charged with having violated: a document that loses none of the authority due to its official character, from having been signed, and probably indited by a gentleman whose talents and learning had illustrated a high judicial station in New York, before he was called to the administration of the Navy Department; and are now added to the splendid assemblage of the same qualities, on the Bench of the Supreme Court of the United States. These instructions lay down the doctrine, and apply it to the actual case, in terms that leave not the shadow of a doubt, as to the relations in which I was to hold myself as well towards the pirates as the Spanish authorities and people.

(a) Vid. act of Mar. 3, 1819, vol. 6, p. 417

You will announce (says my letter of instructions) your arrival and object to the authorities, civil and military, of the Island of Cuba, and endeavour to obtain, as far as shall be practicable, their co-operation, or at least their favourable and friendly support, giving them the most unequivocal assurance, that your sole object is the destruction of pirates.

"The system of piracy which has grown up in the West Indies, has obviously arisen from the war between Spain and the new Governments her late provinces in this hemisphere, and from the limited force in the Islands and their sparse population, many portions of each being entirely uninhabited and desolate, to which the active authority of the Government does not extend. It is understood that establishments have been made by parties of these banditti in those uninhabited parts, to which they carry their plunder, and retreat in time of danger. It cannot be presumed that the Government of any Island will afford any protection or countenance to such robbers. It may, on the contrary, confidently be believed, that all Governments, and particularly those most exposed, will afford all means in their power for thir suppression. Pirates are considered by the laws of nations, the enemies of the human race. It is the duty of all nations to put them down; and none who respect their own character or interest will refuse to do it, much less afford them an asylum and protection. The nations that makes the greatest exertions to suppress such banditti, has the greatest merit. In making such exertions, it has a right to the aid of every other power to the extent of its means, and to the enjoyment, under its sanction, of all its rights in the pursuit of the object. In the case of belligerents, where the army of one party enters the territory of a neutral power, the army of the other, has a right to follow it there.

"In the case of pirates, the right of the armed force of one power to follow them into the territory of another, is more complete. In regard to pirates, there is no neutral party; they being the enemies of the human race, all nations are parties against them, and may be considered as allies."

I lost no time in establishing an understanding with the Governors of Porto Rico and Cuba, as recommended by these instructions; and, as fully appears from the documents accompanying the President's Message to Congress, Dec. 2, 1823, before referred to. From these, it has been seen that, both the Governors recognized, without hesitation, the meritorious character of the war; pledged themselves for every aid and co-operation in their power; that, in various instances they did co-operate; and actually received prisoners taken by our squadron, both at sea and on land, and had them executed. Thus, the presumption upon which my instructions proceeded, that the local governments of these islands were to be considered and treated as allies, in a regular war, was confirmed and consolidated into a solemn compact, followed by all the practical and open evidences of alliance and common cause.

I conceive it to have been clearly made out, that, in the simple

character of neutrals, the conduct of the people of Faxardo, would have justified stronger measures, than any adopted by me towards them: but as the subjects of an ally, embarked in a common cause, they were out of the pale of protection from their own state: they were identified with the enemy of their own state; and the worst species of enemy, pirates.

They were themselves either actually or constructively pirates; and, in attacking and subduing them, (if I had gone that length,) I should have attacked and subdued the enemies of the very state whose territory and sovereignty I am charged with having violated.

The only question, then that remains, is, whether it were a violation of my instructions, to have awed these people into some regard for their own duties, towards both the *allies*, and some greater respect to *the allied arms*, by a display of military power—pushed no further than to produce the moral effect of operating on their fears, by a demonstration of what we could and would do, if they persisted in their iniquities. The question, then, may be reduced to this: whether a set of instructions, that passed through *the hands* of so eminent a lawyer and judge as Secretary Thompson, *and had* received the sanction of his name, had been so improvidently phrased, as to forbid me from doing the very thing I was sent to do —namely, from protecting the *commerce* and the *citizens* of the United States from piracy; when it should so happen that the perpetrators, or, what is the same thing, the abetters, associates and accessaries of the perpetrators, and so identified in appearance and circumstance with them, as rendered it impracticable to make any specific distinction between principal and accessary, appeared in the persons of men, who had added, to the crime of piracy, that of flying in the face of the authority of that Government, under which they pretended to live. An absurdity upon the face of the proposition; and therefore impossible to be inferred from any sensible and well advised instructions.

Still, it may be more satisfactory to enter into some analysis of that document, in order to see, if its terms give any colour to so strange an imputation on its consistency.

Let it be remembered, that the question is not whether my instructions, in terms, import an authority to do the act, but whether they prohibit it. It has, already, been shewn, from reason, authority and precedent, that, in proceeding upon the principle of self defence, to attack or repel the enemy by the same means, that he uses for our annoyance, no act of hostility is supposed to be committed against the neutral or allied sovereign, when his territory or his subjects are involved in the consequences of belligerent operations.

That it was not to attack or to punish Spain, but simply to repel the attack of the enemy through her instrumentality, and with her means, was the principle assumed throughout the whole of General Jackson's justification. To have made war upon Spain, for any cause; either for her violation of treaties, or for her breach of neutrality, could have been justified in no other way, but by the

express authority of Congress, who have the exclusive jurisdiction of peace and war, and are the exclusive judges when and for what provocations war shall be declared. It is for them, and them alone, to decide whether national insults or injuries shall be resented or waived. The utmost extent of the President's power, is to call out the force of the nation to repel invasions; in the exercise of which power, it is true, almost all our belligerent operations, since the existence of the government, have been carried on. All these operations, then, upon Spanish territory and subjects, by way of self-defence against our enemy, result from the incidental rights of actual war, as fully vested in every naval or military commander, to whose hands the arms of the republic are committed, as in the President himself. The only difference is, that the President, in his quality of Commander in Chief, may restrain or modify, at pleasure, the practical exercise of the right, by them in command under him; but, in the absence of such restraining order, these high belligerent rights exist, in their full force, in the person of the officer in the immediate command, whatever be his rank. Upon that principle was the capture of the Spanish towns and posts in Florida, explained and justified. The American note, before cited, expressly states, that General Jackson had no order, from his Government, to take them; but that he decided, from his own discretion, upon the measure; "of the necessity for which he had the most *effectual means* of forming a *judgment;* and the vindication of which, is written in every page of the law of nations, as well as in the first law of nature—self-defence."

Then my justification requires no order or instruction commanding or authorizing, while it is indispensable, to the crimination of my conduct, that some order should be shewn forbidding me to exercise the otherwise clear right to adopt the highly expedient necessary, and, in all its *public results*, most fortunate measure, now in question. The incidental power, to its fullest extent, was inherent to my command; unless that command had been stripped of it, by a positive order. This brings us directly to the question, whether my instructions, of the 1st February, 1823, do, in terms, forbid me to exercise this power. I maintain, not only that there is the absence of any such prohibition, express or implied, but that the course of conduct which I pursued, is enjoined by my instructions; and if I had neglected that injunction, I should at once have basely betrayed the high and sovereign rights of war; with which the glory and safety of the nation are so essentially connected; and have violated the letter and spirit of my instructions, by a course of conduct directly opposite to that, now imputed to me, as a disobedience of orders.

I shall proceed to lay down a few simple rules of interpretation, by which the sense, in which I clearly understood and acted, upon my instructions, may be demonstrated, as their true import and meaning.

1. The reason or final cause; the main end to be accomplished,

deserves the first consideration. Then, I was appointed to *the* command of the squadron, for the purpose of repressing piracy, and affording *effectual* protection to the *citizens* and *commerce* of the United States." I am told that it is "my duty to protect our commerce against all unlawful interruptions, and to guard the rights both of *persons* and *property* of the *citizens* of the United States *wherever* it shall become necessary." Such is the final cause, or end of the armament. It was upon this principle, mainly, that General Jackson rested the justification of his procedure in Florida, when he appealed to his instructions, from the War Department, in which he was informed that the "honour and interest of the United States, required a speedy and successful termination of the war:" and, he argues, that he pursued the only means by which he could have effectuated that intent; and that the intent, both general and particular, expressed in the order, justified the means: those means being, in themselves, entirely conformable to the established laws and usages of war. (*a.*)

The means, by which I was to have accomplished *the object of* my command, were left to my discretion, under the guidance of some general rules. The limitations of my authority from which any thing like a prohibition may be inferred, are expressed in two clauses. I am, in the first place, told that "where a *Government exists* and *is felt*, you will, in all instances, respect the *local authorities;* and only act in aid of, and co-operation with, them:" and again, "in no case are you to pursue and apprehend any one, after having been forbidden to do so, by *competent authority* of the *local governments.*" Now the term "government," or "local government," certainly means the supreme power of the country; and, in reference to the Spanish Islands, means the several provincial governments there established, called *local*, in contradistinction to the government of the mother country, which is supreme over all. It cannot be pretended, that the term comprehends the inferior magistrates of obscure towns and villages. Then this government must not only *exist*, but must be *felt:* and felt to *what* purpose, and to what extent? Surely, to no less than to *maintain*, practically and efficiently, its sovereign and active authority, in the country; to the purpose and to the extent of holding it inviolate, from the inroads of the common enemy. In a preceding part of the instructions, places, to which the "*active authority* of the government does not extend," are spoken of: nor can it be less than the active authority of the government, in any case, that I was bound to respect. I am told, repeatedly, in my instructions, that I am to *presume* that the Spanish *authorities* and *people* will make common cause with me, and cordially co-operate with me: I am told so in the very clause, which requires me to respect the local governments: and strange, indeed, if I had been required to respect them, on any other terms. I was acting, not only upon this

(*a.*) Vid. Niles' Register, vol 18, p. 331—2.

presumption, but upon the faith of direct and positive assurances, from these very local governments, that they would so co-operate; confirmed by unequivocal acts of co-operation. When I came to discover, upon these Islands, extensive settlements of pirates, in the various disguises of fishermen, &c.; when I found considerable districts, in the possession, or under the controlling influence, of pirates; would it have comported with due respect to the local governments, to have *presumed* that such infamous abuses were by their authority; and that, by attacking the pirates, I should be invading the rights and dignity of the governments? Are these pirates to be viewed, in such circumstances, as "Spanish authorities, or people," in the sense of my instructions?

If such were the presumptions upon which we were to act, we committed innumerable transgressions, in the instances of the several piratical establishments broken up and destroyed, without complaint, on the coast of Cuba, as before mentioned.

But the meaning of this injunction, to respect the local authorities, where a government exists and is *felt*, is decided by its immediate context; for it goes on to direct that I shall only act in *aid* of, and *co-operation* with, them." Now the one of these injunctions, is just as obligatory as the other: those whom I am to *respect*," I must *co-operate with and aid*: they must be in a condition to challenge the observance of both, or of neither. Then, if I am to respect the people and authorities of the islands, who are identified in character and conduct, with the pirates, I must also act in aid of and co-operation with them;" and how consistent this may be, the main end and aim of repressing piracy, and affording effectual protection to the commerce and citizens of the United States, needs no remark to illustrate. When I am told that I must not continue the pursuit of pirates on shore, "after having been forbidden to do so by *competent authority* of the local government," should I have been justified in accepting the prohibition of the pirates themselves; or of their known, or strongly suspected associates and accessaries, as from such competent authority? The only prohibition ever received by me, was in the form of open hostility and resistance, no otherwise to be accounted for, than as an attack upon the suppressers, and a defence of the professers of piracy.—Lieut. Platt was not forbidden the pursuit and inquiry which occasioned his first visit to Faxardo: but he was at first received with insidious civility, and a professed respect to his official character, and in that guise conducted to the town, where the treatment he afterwards received was equally unaccountable, upon any other ground than that of the people, or a majority of them, making common cause, or being identified with the pirates. I am further directed, if the crews of any vessels, which I have either seen engaged in acts of piracy, or have just cause to *suspect*, as being of that character, retreat into the ports, harbours, or settled parts of the Islands, I may enter in pursuit of them, for the purpose of aiding the local *authorities*, or people, as the case may be, to seize and

bring the offenders to justice ; previously giving notice, that it is my sole object. Then here is an affirmative direction, (not necessary to communicate the authority, but only declaratory of an authority already inherent to my command,) to pursue the enemy into the ports, harbours, and settled parts of the Island, but qualified by a limitation, which necessarily supposes that there are *authorities* or *people* present, who have the will, and, with my aid, the *power* to seize the offenders, and bring them to justice. But suppose no *authorities* or *people* of that description are to be found; and though the country be ever so thickly settled, it is occupied and held by pirates and their accessaries, who exert a controlling influence and effective power over the District, and hold what people and authorities, there may be, in check, or in close alliance : is not the hypothesis, upon which the limitations of my otherwise absolute authority are expressly founded, done away, and is not that authority consequently left in its pristine force ? Is there any possible construction of the document that could require of me to aid and assist people to seize and bring themselves to justice ? The very case put by my instructions, as requiring the pursuit of the piratical crew, was presented. I had just cause more than to suspect that such a crew, which had robbed an "American citizen" at St. Thomas, had retreated with their plunder to Faxardo ; and, in the pursuit of them, I am encountered at the threshold by men of the most equivocal appearance, who stand forward to resist the *pursuers* and defend the pursued without parley or warning of any kind Then, was I not bound to conclude, that these men knew what they were about, and that the defenders and persons pursued were the same. I knew to a certainty that they were not. and, in the nature of things, could not be acting under the authority of the local Government ; but I had the strongest grounds to presume that they were acting against it. What reason had I to presume that they had any better authority than the pirates who fired upon Capt. Cassin, near Cayo Blanco, and upon Lieuts. Kearney and Newton at Cape Cruz ; and who, on other occasions, and at other places, committed the like violence, and, upon being pursued to the interior, were found to be settled in fishing villages, defended by cannon advantageously posted on the rocks ?

It seems to me plainly impossible to construe my instructions as a prohibition of the operation upon Faxardo, consistently either with their context, or with the prominent and declared reason, or final cause of the course of service which they prescribed. A learned and judicious author has said, that "the nature of every law must be judged of by the *end* for which it was made, and by the aptness of things therein prescribed, unto the same end ;" a rule which absolutely concludes the present question.

2. The rule, which requires an expression to be interpreted from its relation to what goes before, and what follows the place where it stands, "has been embraced under the head of *rational interpretation* already considered. But another rule, entering large-

ly into every question of interpretation, is derived from "the circumstance of the same, or equivalent expressions being used by the same person, to express the same intentions, on other similar occasions." (*m*.)

Upon this point, it becomes material to examine the orders or instructions under which General Jackson acted, in the campaign before mentioned. The restrictive clauses of these orders, being more directly to the point, shall be more particularly noticed: they are explained by two documents. 1st—The President's Message to Congress, 25 Mar. 1818, declares that "to the high obligations and privileges of the great and sacred right of self-defence, *will* the movement of our troops be *confined; orders* are accordingly given to the general, *not* to *enter* Florida, but in pursuit of the enemy; and in that case to respect the Spanish authority, wherever it is *maintained*." (*n*) 2dly—in Mr. Adams' letter to our Minister at Madrid, the order is laid down in nearly the same terms. (*o*) The only difference between the terms of the restriction upon him, and upon me, is that in my case, the Government must be *felt;* in his, its authority maintained—and what difference there may be between these terms may be explained, (if indeed explanation can be necessary,) by a reference to the President's subsequent message, of November 17th, 1818, where this very expression of a Government being *felt* is used; (*p*) and though there was a regularly organized colonial Government, in possession of towns and fortified places, with well appointed garrisons, within the precincts of which Spanish authority was paramount and undisputed; yet, because their authority was confined almost exclusively to the walls of St. Augustine, Pensacola, &c. because they could not exercise an efficient and active authority over those without the walls; and because all these strong holds were made subservient to the purposes of Indian hostility, the authority of the Government was held not to have been "maintained," not to have been "*felt*," even within the walls of places garrisoned by their troops; not even in the capitals of their provinces, where the Government actually resided. These very places were taken, because the authority of the Government was not maintained or felt, to the extent required by her neutral duties, and necessary to give effect to our lawful means of repressing Indian hostilities. When the General found that the Government was not sufficiently *maintained* or felt, to fulfil the final cause or end of his military operations, but tended to defeat it, he was justified in concluding that it was not *maintained* or *felt* to the degree supposed by the limitation in his instructions, and of course that the *limitation* fell with the hypothesis upon which it was founded.

(*m*) 3 Cam. Grot. p. 145, sec. 7.

(*n*) Vid. Niles' Reg. vol. 15, p. 100.

(*o*) Vid. ibid. p. 371.

(*p*) Niles' Reg. vol. 15, p. 213.

Lest it be surmised, that the Government was secretly actuated by any policy to attack and undermine Spanish power in the Floridas, not applicable to the state of things in the West Indies, (if it be necessary to vindicate the Government against any sort of double-dealing,) I may refer to the successive orders from the War Department to Generals Gaines and Jackson, from the 2d Dec. 1817, to the 6th Feb. 1818. (*q*) By these it appears, that it was contrary to the policy and inclination of the United States, to be embroiled with Spain at that time. The state of the pending negotiation is referred to as rendering it impolitic to provoke her: and General Gaines is instructed, that, if the Indians, when pursued into Florida, *shelter* themselves under a Spanish *fort*, he is to stop, and give notice to the Government.

A practical construction is given to my orders, by the toleration of all the previous descents upon Cuba and Porto Rico, followed by the destruction of settlements, having all the appearance of innocent fishing villages, where were assembled men, women, and children, of all ages; and which were, nevertheless, found to belong to pirates, in disguise. (*r*)

But, suppose I have failed to establish the construction of my orders, as understood by myself, and now explained; does it follow that I am guilty of any *disobedience* of *orders*, under the naval articles of war? The negative may be clearly maintained, on two grounds.

1. The articles of war look only to orders given by a *superior* officer in immediate command; not to general instructions from the Government; the observance of which, it is supposed, the Government has, in its own hands, the means of enforcing.

2. The instructions are *discretionary;* and no officer can be charged with the breach of a discretionary order, unless he wilfully and corruptly misconstrue and pervert them. For no mistake of judgment can be, in the nature of things, punishable Here is the law of nations laid down to be in my instructions; to be applied in a great variety of supposed circumstances, to facts as they arise. A number of rules, defining the relative rights of the parties are prescribed, requiring the exercise of discreet judgment to expound them. I apprehend it to be impossible for any man to review the circumstances of this case, without admitting, whatever be his opinion of my judgment, or my reasoning, that I might not, in the honest exercise of my reason and judgment, have done the act with which I am charged.

To bring me within the scope of this most penal charge, it must appear, that I was either positively ordered to do something that I omitted, or positively forbidden to do something that I did; or that, under pretence of executing a discretionary authority, I corruptly or maliciously abused it.

(*q*) Vid. Niles' Reg. vol. 15, p. 303-5.

(*r*) Vid. Lieut. Kearney's report, in Aug. 1823, among the documents with the President's Message, of Dec. 1823, p. 174.

SECOND CHARGE AND SPECIFICATIONS.

The second branch of the accusation has, from the first, occasioned me no little perplexity, which has, in no degree, been relieved by any elucidation in the course of the present trial. Whether any, and what sort of justification it made incumbent on me, was not so easy to determine, from any matter of crimination, either distinctly pronounced, or properly to be inferred from the context of the charge or the specifications.

The process neither of the evidence, nor of the argument, by which the gist of the prosecution, and the points on which it turned, should have been distinctly explained, or openly vindicated, has tended to possess me with any more clear or detailed information of the specific quality and degree of the offence with which I was to be charged, or of the penal consequences supposed to be attached to it, than might have been collected from the extremely vague and indefinite, if not unintelligible, terms of the charge and the specifications. Indeed, the impenetrable reserve, affecting mystery, if not studious of concealment, by which such dim and partial views of these points have been vouchsafed, would seem to indicate the darkest suspicions, and a necessity for a prosecution as unrelenting in its purpose, and as unscrupulous in its means, as could be, at all, admissible in any judicial procedure, as if it were dealing with some wily and veteran offenders, skilled and experienced in all the subtleties of evasion; and who was to be caught in his iniquities only by pouncing upon him unawares, and by concealing from him the quarter of attack, 'till the unseen blow pushed home and felt in all its force, should have overwhelmed him with the shame of open detection, while unprovided with a subterfuge, and cut off from all retreat.

I was instructed by the clear and unhesitating advice of my counsel, confirmed by as clear an insight into the merits of the question as could be obtained by my own common sense, to conclude that this branch of the accusation purported to charge me with no offence, of which this Court had any judicial cognizance; and my own conscience, as far as it had been enlightened by any knowledge or conjecture of the transactions, so darkly alluded to, was equally void of any offence to which any degree of guilt, either legal or moral, could be imputed. Indeed it was clear enough, upon the face of the accusation itself, how sedulously the responsibility of having imputed any thing, immoral or dishonourable, had been guarded against; and, accordingly, that instead of a definite and precise charge, supported by specifications, in any proper and legitimate sense of the term, vague censures clothed in loose generalities, and in the most ambiguous and perplexed phraseology, had been introduced, by a strange abuse of terms, under the name of a charge and specifications.

Perfectly consistent with the original frame of the accusation, has been the method, in which it has been followed out, in the proof and in the argument.

Voluminous masses of documents, consisting of a miscellaneous correspon lence, and a printed pamphlet of more than one hundred pages, were produced in evidence, under the several specifications, and indiscriminately read, from beginning to end, without any specific designation, or reference whatever to the passages or the circumstances wherein the offensive matter was supposed to consist, with the single exception of the alleged omissions, deficiencies and verbal inaccuracies, charged upon that part of my pamphlet, which purports to set out the proceedings of the Court of Inquiry; which were, indeed, vouchsafed after the trial had proceeded for more than a fortnight. Additional masses, little less voluminous, of documents and other collateral evidence, have been introduced, and, in like manner, read indiscriminately, from beginning to end, without the slightest intimation of the charge or the specification, to which they were to be applied, far less of the bearing they were supposed to have on any point of the accusation, or of the purpose and object of their introduction. In two instances, witnesses have been introduced to authenticate numerous documents, without naming or describing them; and even without any enumeration or description of them being entered on the minutes, which record the evidence by which they are authenticated. Our request to have these documents openly exhibited and subjected to our inspection; or, at any rate, to be furnished with a list and specific description of them, has been denied; and all that was vouchsafed to us, was an intimation that it would be time enough for us to see and inspect the documents when they came to be successively produced, as wanted, from time to time, in the progress of the trial. In the mean time, they have been kept under lock and key, wholly inaccessible to me; and, to this very day, I am ignorant how many, or what part, or, indeed, if any of these documents have since been found useful to subserve the ends of the prosecution, or have been actually used as evidence; though I presume, (but without any responsible assurance of the fact,) that some part of my official correspondence with the Navy Department, since read and attached to the record, entered into the composition of this strange paradox, of documents openly proved in a Court of Justice, and yet unknown either to the Court, or to the party against whom they were produced. At a late stage of the trial, interrogatories are exhibited, for the examination of a witness upon deposition. Explanation is asked, and unhesitatingly denied;—1st, of the authority for taking a deposition, instead of confronting the witness with the accused, as indispensably required, (with a few stated exceptions, expressly provided for by statute,) in every criminal case, and, above all, in every capital case; and this, not only in the absence of any direct authority to be found in the Naval articles of war, or other law, but in the face of an article expressly requiring that the witnesses examined before a Naval Court Martial, shall be sworn by the President of the Court. 2d, of the purpose for which this deposition was wanted, and of the point to which it was to be applied, in order that I might frame the

cross-interrogatories, which I was called upon to furnish, with a discreet forecast of the operation, and effect of the evidence upon my cause. The deposition, taken before a county justice of the peace, after having been held up, for some days, without any notice to me that it had been received, is at length produced, and read to the Court, under the same silence and reserve, as to the bearing or relevancy it might be supposed to have, upon any matter put in issue by any of these charges and specifications—the want of relevancy and pertenency, to any such matter, being apparent upon its face.

Whether, in all this, there were any thing to be condemned as irregular, according to the established law and practice of Courts Martial, this Court has not been called on to decide; for I was wearied out, myself, and apprehensive of fatiguing the Court, and exhausting its valuable time, by raising my voice so frequently against the continually recurring aberrations from the salutary forms of procedure, usually observed in criminal prosecutions: and equally indispensable to the due administration of justice in a military, as in a civil court. I made this sacrifice of my right to complain and to remonstrate, with no other hesitation, but what arose from my reluctance to sanction a dangerous precedent; the pernicious consequences of which, to the principles of military jurisprudence, were incalculable. My own innocence, I knew to be too firmly seated in conscience, too strongly fortified by its internal strength, and too well guarded by external evidence, to fear either secret sap, or open assault: and it shall not be my fault if any transgressions against the wholesome rules of judicial practice, be drawn into precedent hereafter.

My own reason informed me, and the clear and decided authority of every approved author who had treated of the elements or practice of military law, was united with undeviating unanimity, in pronouncing, that every alleged offence against military law, as against the general law of the land, must be determined by some fixed and known rule of action, instituted by positive law; and defining the character and degree of the offence; and that it must be shown by the terms of the accusation, to be cognizable and punishable under such law. The grounds and principles upon which this proposition may be demonstrated, and by which the present accusation, after having that test applied to its terms, is necessarily excluded from the legal cognizance of the Court, have been amply unfolded in the preliminary exceptions taken by my Counsel, to the 2nd charge and its specifications. In the answer to these exceptions, the undisputed power of the Executive, to discharge from service, any officer holding under its appointment, in other words, to revoke a commission granted during pleasure, is adverted to. It is intimated that this power has been exercised, and may be again, to protect the Executive from the contumelies of its subordinate officers; that, in this instance, the Executive was under no necessity to have remitted me to a Court Martial for trial; but might have judged and punished me, by its own inherent jurisdiction, and upon

the responsibility of its discretionary powers; and that, having this inherent power and jurisdiction, it has, by the act of preferring these charges, pronounced its own opinion of my conduct; and has required of this Court nothing more than to inquire and ascertain whether the acts, of which it is to be taken for granted, from the official exhibition of the charge, that I am guilty, may be explained or palliated by any circumstances of excuse or mitigation.—Then, if I may rightly comprehend this reasoning, this Court is now exercising a jurisdiction, *ex gratia*; as a mere concession from the Executive; without any necessary and legal cognizance of the matter, and, instead of a grave tribunal of criminal judicature, commissioned to pronounce the solemn judgments of the law upon the guilt or innocence of a prisoner, accused of high offences against the law, we have an anomalous sort of inquest or council of ceremonies, which is to report to some superior authority, every breach of decorum or good breeding, from boorish rudeness, to the slightest deviation from obsequious respect, by which fastidious pride, or apprehensive delicacy, might be offended. In that view no punishment is to be inflicted by the judgment of this Court, but the case is to be again remitted to the Executive, for him to decide, from the circumstances reported by this Court, upon the expediency of exerting his power to remove me from office. It is further implied, if not laid down in terms, that the Executive requires not the opinion of this Court, whether the facts specified under the second charge be true, nor whether they do, in themselves, amount to "insubordinate conduct, and conduct unbecoming an officer;" both the fact and the corollary being already established by the opinion of the Executive, manifested in the exhibition of the charge; and the function of this Court being limited to a report of any circumstances of excuse or mitigation to be offered on my part. Still, the argument of the Judge Advocate, in answer to the exceptions taken by my counsel, concludes with a clear and unhesitating opinion, that the charge and specifications are, not only, sufficient in substance and form, but that they do specify offences of a military character; for which the accused may be *arraigned* and *tried* before a Court Martial. Whether *punishment* be understood to be involved in the arrangement and trial, here spoken of, or to be deferred to the Executive discretion: so as to reduce arraignment and trial to a mere inquisition of circumstances of excuse and mitigation, or whether a *judicial* power to try and punish, concurrent with the *Executive* power to judge, summarily upon view, and to punish by removal from office, be affirmed: are questions which it would be difficult to determine by any lights in the preliminary exposition, that has been elicited, of the principles upon which the jurisdiction of this Court may attach itself to the case.

Having still to grope my way through a dubious twilight, to a knowledge of what may constitute the gist of my offence, and the essence of my accusation, in point both of law and of fact, I must proceed, by the help of anticipations and conjectures of the point of attack, to defend myself, the best I may, on every ground.

Though I had yielded my conviction, with such absolute confidence, to the force and conclusiveness of the reasons by which the preliminary exceptions of my Counsel to the sufficiency of the second charge and its specifications, had been sustained, yet I should not have been in the least disconcerted, nor, as I imagine, materially curtailed of my defence, if such exception had been overruled by any new and unexpected arguments, which the learning and abilities enlisted against me, might have suggested in answer. I should, without regret, have given undisputed sway to the philological and legal disquisitions which were supposed to have furnished such victorious arguments in support of the charge and specifications excepted to. But when I found myself assailed by a species of *argumentum ad hominem*, digressing into circumstances foreign to the point in question; and proceeding upon the most extraordinary misapprehension of my language and conduct, and of the motives inferred from them, I could not forbear to discharge myself from the imputations, and to disclaim the inferences that might have resulted from this official and recorded misconstruction of my conduct and motives.

I adhere, with undiminished confidence, to the propositions of law, which have been stated and illustrated by my counsel, to acquit me of any necessity to answer the second charge and its specifications; but before I advert to the grounds upon which they are either maintained or contested, I must be permitted to pass, very briefly, under review, the collateral topics of disparagement, which have been brought in aid of the argument against them.

1st. As an evidence of my disposition to raise captious and futile objections, if not of my want of candour, it has been stated that I had complained, on the first day of the Court, of not having been served with a copy of the charges and specifications; and yet, the next day, I produced a copy with which I had been regularly served, and which differed from that upon which I had been arraigned only in *two letters*. The fact is well remembered, that I gave as a reason for demanding a fresh copy of the charges and specifications, a difference I had discovered between the copy read and that in my possession; and my written explanation the next day, which I hope forms a part of the record, minutely explains the difference between the two. Nor is the stated result of the minute calculation, which reduces the variance to a mere difference of *two letters* in the spelling of a word, by any means correct or fair. The variance, (no matter in how many *letters* or words it consisted,) was in the date of one of my letters specified as "*insubordinate* and *disrespectful*." The letters were no otherwise specified or identified than by a naked reference to *dates*;—the one copy of the specification gave a letter of one date, the other copy omitted that, and gave a letter of another date; and so the variance consisted not in the difference between the spelling of *thirtieth* and *thirteenth*, but in the entire letter, which constituted one of the documents of the charge: and in one sense, may answer to

the result of the Judge Advocate's calculation of a difference of *two letters*. But if it be true, as has been suggested, that the only office of the Court in this trial, is to offer propitiation to another authority, by which I stand already condemned upon the strict law and the fact; how hopeless the task of exculpation or excuse, if the spirit in which the charges have been instituted, be conventaneous with that by which they are prosecuted to judgment. For here am I charged with litigiousness, illiberality, and want of candour; because I had simply pointed out an important defect in the procedure against me; all the advantage from which I had voluntarily waived, and had conceded to the prosecution and *election* to adapt either or both of the letters referred to in the two copies of the specification; only requiring that the election should then be definitively made.

2d. I am also represented as having appealed to the Judge Advocate to *withdraw* the second charge, and even to have followed up the application with some intimation sounding in menace, and it is thought necessary gravely to expound the relative powers and duties of the Judge Advocate, from which any discretionary authority to *withdraw* a charge is excluded. The only circumstance from which I am given to understand that this attempt to escape from the prosecution, either by the lenity or the fears of those who were to uphold it has been inferred, was a simple appeal made by my counsel purely out of the courtesy usual on such occasions, to the *candor* of the Judge Advocate, as the law adviser of the Court, upon the validity of the exceptions to the second charge.

As I, and every person present, with whom I have compared notes, most distinctly and clearly understood the passage of the transaction alluded to; my Counsel was insisting upon the right to the reply, if, contrary to his expectation, any answer should be offered to the reasons advanced in support of his exception to the charge and specifications; and, after explaining that, according to all judicial practice, the right of reply lay with that party who had originated the motion, and supported it by an opening argument, he qualified his application to the Court, by saying that he really did not anticipate a necessity for any such reply in that instance, as he entertained a very confident hope and expectation, that the Judge Advocate, when he should have deliberately considered the question, would candidly admit the force of the objections, instead of attempting to answer them, and would abandon the charge and specifications, as untenable.

Why, such an appeal to the candour of an opponent, should be abhorrent to the principles, upon which this prosecution is conducted, concerns only him or them to whom the conduct of the prosecution is entrusted. I ask no favours, no concession; nothing in short, but the strictest debt of justice, cast up by the hardest reckoning; nor have I ever desired to wrest it from any withholder by other than the moral force of law and justice. As to the menace, so strangely surmised, it is said to be inferred from some

xpression in the written argument of my Counsel. Whatever be he exceptionable passage in that document, it now stands recorded or the condemation or acquittal of its author; and dispenses me om any explanation, further than that I have looked in vain for the assage from which any mind, not afflicted with an extreme susceptibility of offence, could have inferred a menace. Every well isher to the credit and success of this prosecution must hope, iat its character for nerve and determination, should rest upon me less equivocal evidence, than the power to withstand the inances of this shadowy phantom of a menace. As yet, certainly infirmity of purpose, in the course of the prosecution, has given ound for any doubt, either of the active courage or the passage rtitude, by which it is upheld; and I shall be the last to underlue the efficacy of the tremendous ordeal to which those high ialities seem to have been voluntarily destined, by the maner in which they are exerted upon this occasion.

3d. I am also charged with having taken refuge under nice cavils f law and grammar; with having taken advantage of verbal criticisms and legal technicalities, to escape the legitimate consequenes of the charge; and with having manifested more dread of punishent, than sensibility to character; as if I were willing to go forth cquitted by the judgment of the law, but condemned by the moral ense of mankind; unpunished in person, but tarnished in fame. o little purpose, indeed, have I so long lived and acted in the ublic eye, if there exist a man who could, in his heart, entertain ie suspicion that I could incur any more grievous punishment in iis life, than a degraded name, or could aspire to any higher reard than a pure conscience and a spotless reputation. But if it rere otherwise, and it were true, that I could have been reproached with a design to escape investigation, by resting upon any legal dvantage, it is without precedent, I believe, either in England or n this country, that the law officer of the government, charged rith the conduct of a public prosecution, should have attempted to ffix a stigma to the character of the accused as a substitute for legal onviction and punishment; or if there be any instance either among he crown lawyers of England, or the law officers of the United tates, of any such gratuitous infliction upon the feelings of the acused, it has been held up as a beacon to be reprobated and avoided, rather than as an example to be followed. The humane dictate f public justice, in every such case, is that the law and its minisers either judicially acquit, or judicially condemn, without qualication: whom the law acquiteth, its ministers presume not to ondemn; but for every moral offence, without the cognizance of indictive justice, the party is remitted to his conscience, and to he bar of public opinion. But in this case, my exception to the charge turned upon the utter absence of any imputation of either *legal* or *moral* guilt; and upon the vague and unintelligible phraseology of its terms; or, in so far as any intelligible point of accusation could be deduced from it, that it hinged upon minute and

frivolous fault-findings, altogether beneath the dignity of judicial animadversion. And now that this long rod of investigation has had its full swing; unlimited by time, place, or circumstance; every anticipation of the frivolousness and want of gravity, in the essential matter of the charge, is more than verified in the event.

Before I proceed to discuss the several specifications in their order, I must beg permission to advert to some of the points discussed in the argument of the exceptions taken by my counsel to the 2d charge and its specifications, and which are left in a state not a little perplexing to me.

It has been insisted that these exceptions could not be received, as in the nature of a motion to quash an indictment or information, but as a *demurrer* to an indictment, which, if overruled in *law*, conclusively admits the fact.

Now how the analogy between these exceptions, and a demurrer at common law is to be brought about, is, as I apprehend, wholly incomprehensible. No authority, upon the law and practice of Courts Martial, has the most remote allusion to any such form of pleading as a *demurrer*. The only pleas ever used, are said to be one of three; namely, the general issue of not guilty; or a former acquittal; or a former conviction of the same offence. A technic demurrer, to be followed, if overruled in law, by the consequence of an exclusive admission of the fact, is peculiar to the practice of the Courts of common law; and it is believed has no precedent or analogy in the practice of any other Courts, or in the rules of any other system of jurisprudence. In the Courts of the civil or Roman law, a form of proceeding, giving to the party every advantage of a demurrer, was used under the name of exceptions, which were either *peremptory* or *declinatory*, according as they went to the substance or the form of the action. But if such exceptions were overruled, they were never held as admissions of the fact; but the party excepting was still permitted to go on to the *contestation of suit*, which was equivalent to the *general issue* in Courts of common law, and then the whole merits were discussed. So the Courts of equity, which both in their forms of procedure, and principles of jurisprudence, had been modelled more after the *civil* than the *common* law, adopted the form and the name of the *demurrer*, discharged of its common law consequence of standing as a conclusive admission of the *fact*, when overruled in point of *law*; so that under the name of a demurrer, the exceptions, peremptory or declinatory, in the Courts of civil law, are essentially preserved, and the demurrant is left at large, in his answer, upon all matters of fact. Now in Courts Martial, where demurrers, as a form of pleading, are wholly unknown, it must be extremely difficult to find any analogy, which shall answer their legal consequences to *exceptions*. So in the published state trials before the court of session in Scotland, where the civil law prevails, we find the advocates for the *pannel*, or accused, *pleading* to the *libel*, before they join issue on the fact; and when their plea to the libel, (analogous to the ex-

ceptions of the civilians, and to the demurrer of the common lawyers,) is overruled, they still go on to plead to the fact. That the accused in all Courts, and under all systems, should have the means and opportunity, in some form, to question the legal sufficiency of the change itself, is indispensable to the due administration of justice; and that in Courts Martial, which one supposed by Mr. Tytler, to be more analagous in their constitution and forms of procedure, to the Courts of the *civil* than of the *common* law, such exceptions should be admitted upon the terms usually practised in the great majority of judicial tribunals, rather than adopt any narrow, technical, and peculiar practice of one set of Courts, is but reasonable. Indeed the question of practice should be decided, by the fact that a demurrer never has been admitted among the pleas, available in a Court Martial. The truth is, that in criminal cases, the demurrer is entirely disused in the Courts of common law, because every advantage of a demurrer is then obtained, either by a motion to quash the indictment, or to arrest the judgment, without any danger of being concluded to the *fact*, if found to be mistaken in the *law*. The exceptions to the legal sufficiency of a charge in a Court Martial, is more analogous to a motion to quash, than to a demurrer; and in this case, it is made expressly and specifically as a motion to quash. It must be a very curious process of analogical ratiocination, by which this motion is to be converted into a technical demurrer. 'Tis said that a motion to quash is not entertained, where the jurisdiction is for certain grave offences, but only when some of the lighter class of offences are charged. The reason given is, not that the Court has not the same power and jurisdiction to quash, in the one case as in the other, but because they will not decide grave and weighty questions in that *summary way*, but will turn the party over to his motion in arrest of judgment, when the question can be more fully argued and considered. This is a mere notice of practice, founded on the discretion of the Court; but before it can operate to convert our exceptions into a technical demurrer, several postulates are demanded.

1. That Courts Martial have, in the exercise of a like discretion, distinguished military offences, that are too grave for a motion to quash, and which must be reserved for a motion in arrest of judgment, for such as are light enough in their character to be more summarily disposed of. 2. That the 2d charge and its specifications do indicate an offence of the graver kind. 3. That if a motion to quash an indictment be overruled, because the offence is of too grave a character to be so summarily disposed of, the Court will, of its own authority, convert the motion to quash into a technical indictment, and hold the party to all its consequences. 4. That any process, analogous to a motion in arrest of judgment, can prevail in a Court Martial. This is plainly incompatible with the constitution and practice of a Court Martial, the members of which unite in their own persons the character both of judge and juror. The motion here spoken of can only prevail in a Court where these

functions are separate; where the jury first *convicts* of the *fact*, and a motion of arrest is interposed between the conviction of the Jury, and the judgment of the Court.

Then it plainly appears, that a *demurrer* is a plea wholly unknown to the practice of Courts Martial; and that a motion in arrest of judgment would be absurd and impossible. The right to except, in some form, to the legal sufficiency of the charge, is admitted. From all which, it must necessarily follow, that preliminary exceptions, in the form pursued by us, or reserved, under protest, to be considered at some subsequent stage of the trial, is the only practicable or rational cause.

I have been the more particular upon this technical point, because I am at a loss to conjecture how far the consequences of the doctrine, contended for by the Judge Advocate, may be pushed to my prejudice; and the talents and learning manifest in his argument, make it unsafe to trust too confidently to the apparent conclusiveness of his reasoning, without taking some pains to demonstrate its fallacy. Had it been true, that I could not except to the *law*, without admitting the *fact*, it might also have been concluded that I could not plead to the *fact*, and proceed to the trial of issue without admitting the *law*. In that case, I might have laid myself open to conviction, upon mere proof of the naked *fact*, that I had written certain letters, or published certain proceedings, though the acts should appear to be ever so innocent, and without any consideration, whatever, of the legal effect of such acts. The Judge Advocate seems to admit that, at some stage or other of the trial, I may have the advantage of legal exceptions to the charge; but, he denies that I can have such advantage in the form of preliminary exceptions to the charge, but at the peril of being held to a conclusive admission of the *fact;* and as I know not how the matter of the exceptions may be any more regularly taken up, or safely or effectually urged, when mixed up with matters of fact, than when separately considered, I have, in this perplexity, thought it most safe and expedient to maintain the original ground of exception.

The more important questions of law, discussed in the argument of the preliminary exceptions to the second charge and its specifications, regarded, 1st, the jurisdiction of this Court; as to description, quality and degree of the offences, cognizable by it: and 2dly, the form of the accusation, as to the certainty and precision with which it should bring the offence within the terms of the law, by which it was punished; and the amplitude and minuteness with which the facts and circumstances should be specified.

1st. The proposition that no offence was cognizable by this Court, but such as was to be found in the class of offences enumerated and described in the naval articles of war, had been shown to be so demonstrated in principle, and so clearly illustrated by reason and authority, that, until otherwise instructed by an opposing argument, I had concluded it to be placed beyond the reach of contro-

versy. For the proposition itself, and the principles on which it rests, I must refer, with undiminished confidence in its irrefragable strength and conclusiveness, to the illustrations that it has already received from the preceding discussion of it; and now confine myself to some cursory notice of the more prominent objections that have been suggested in the opposing argument of the Judge Advocate.

'Tis said, upon the authority of a writer, frequently quoted in the course of the discussion, that though no crime, which is mentioned and defined in the articles of war, is punishable in any other manner than in that specially directed by those articles; yet, it does *not follow*, that there are no crimes punishable by a Court Martial, but such as are enumerated and declared to be punishable by the articles of war; and, that there are offences, which admit of no *precise definition*, and yet, in the military profession, are of the most serious consequence, as weakening and subverting that principle of *honour* on which the proper discipline of the army must materially depend; that, of these, a Court Martial, which is, in the highest sense, a *Court* of *Honour*, are themselves appointed the sole judges, or rather the legislators; for it is in their breasts to *define* the *crime*, as well as to award the punishment. (*s*) Such phrases are indeed to be found in the passages cited from the essay of Mr. Tytler; but they are wholly misapplied, when detached from the context, and propounded as generalized rules of law. As such, it was with the utmost surprise we heard them ascribed to the authority of Mr. Tytler's Essay; so utterly inconsistent as they are with the rules so distinctly and repeatedly propounded by himself, and by three other authors of equal authority—two British, and one American. That "the crimes, cognizable by a Court Martial, are *pointed* out by the Mutiny Act, which every man is, or ought to be, acquainted with;" that "Martial Law is laid down in so plain and simple a manner, that every military man is, or ought to be, acquainted with what are thereby *deemed crimes*;" that, "in the accusation or charge, the offence must be set out with certainty and precision, so as to bring it *clearly* and *unequivocally* within the terms of the law or articles of war, by which it is made punishable;" are the terms of the rule, as cited from Mr. Tytler, and the three other authorities, who have all enumerated it with undeviating unanimity. (*t*) These wholesome and necessary rules are particularly illustrated and enforced, both by Mr. Tytler himself, and by General Macomb, who respectively assign the reasons, why it is not necessary, in the body of the charge, to refer to the particular article of war, supposed to be violated; which is, that "the specification of the Criminal Act itself, is sufficient intimation to the prisoner, of the law by which it is punished; and the prisoner may always dis-

(*s*) Tyt. Mil'y Law, 107, 8 109.

(*t*) Adye, p. 62. 225, and 127, 8, 1 McArth. p. 23; § 5—2 id p. 6, 12, Tytl, p. 206–18. Macomb. p. 61–8,

pute the relevancy of the charge, and call upon the prosecutor to show in what respect it falls under the *prohibition* of the law." Well might it have been presumed, therefore, that the text of Mr. Tytler had been wrested from its proper connection and subject, by which the limitations and the application of the passages quoted, would have been determined; when he is represented as ascribing this unlimited jurisdiction to Courts Martial, of defining, at pleasure, what acts shall be added to the enumerated list of offences, punishable under the articles of war, and of *legislating* on the important subject of crimes and punishments. Accordingly, upon reference to the context, we find the whole clearly and rationally explained. In the first passage, which admits the existence of military "crimes punishable by a Court Martial, and not enumerated and declared to be punishable by the articles of war," reference is expressly had to the peculiar power granted to the Crown, by the Mutiny Act, to make and issue *regulations* for the *army*, independent of the established articles of War, and having all the binding force and effect of military law; with certain limitations, as to the extent of the punishment, that may be inflicted under such regulations. The same matter is more fully and clearly explained by Mr. McArthur, who, in his treatise, takes a comparative view of Military Law, as applied to both the *Military* and *Naval* Establishments of Britain. He shows that, while the *Naval* articles of War have been established by successive acts of Parliament, from the reign of Charles the 2d, to that of George the 3d, and have been digested with unusual care and system, while they are irrepealable and unalterable, but by the authority of Parliament; and enumerate and define all offences cognizable under them, with the appropriate punishments annexed to them: there is this curious anomaly in respect to the army, which is governed by articles of war, not instituted by any Act of Parliament, but at the discretion of the Crown, and repealable or alterable at the pleasure of the Crown; besides, the general power of the Crown, to superadd the penal *regulations*, post mentioned. In this respect, the author very justly expatiates upon the advantage which the *seamen* in the British service, have over their brethren in the land service. (*u*)

The second passage cited from Mr. Tytler's essay (p. 109) to prove the legislative power of Courts Martial, as Courts of *Honour*, to define the crime and award the punishment, is equally misapplied to the present argument; and such misapplication is clear from the context, tho' even, as it stands so connected, its accuracy and precision cannot be entirely defended. He refers these terms expressly to some peculiar and special provisions, found both in the military and Naval codes of Britain, but not in our own Naval code. The author, by no means, intends it as the enunciation of a general

Tytl. 216–17. Macomb, 67–8.

(*u*) Vid. McArth, vol. 1, chap. 2, S. 3, 4, 5, 6, p. 20, 22, 23, & 25, & ch. 4, S. 1, p. 40, 1—2.

rule or maxim of military law; but as the result of special enactments, which, it may be remarked, fall somewhat short of the sweeping effect which he ascribes to them. The particular provisions to which he refers, are, 1st, the article of war, which punishes commissioned officers, convicted of behaving in a scandalous, infamous manner, such as is unbecoming the character of an officer and a gentleman. 2ndly, the 23d section of the mutiny act, making it "lawful for Courts Martial to inflict corporal punishment, not extending to life or limb, or any soldier, for *immoralities*, *misbehaviour* or *neglect* of *duty*." The same provisions are commented on, by Mc'Arthur, who with more accuracy and precision, both of conception and language explains them, as giving to Courts Martial a wide discretion, not to define by a legislative act, new offences, but to *discriminate shades* of guilt and, as it relates to the article by which scandalous and infamous behaviour in a commissioned officer is punished, it is further explained that the Court should discriminate between such actions as come up to that standard of moral turpitude, and such, as, however improper and blameable, fall below it: being cognizable by a Court Martial, in the one case and not in the other, (*x*) so in the exceptions taken by my counsel, to this charge and its specifications, and in the reasons advanced in support of them, a very considerable discretion, resulting from the vagueness and generality of the terms, in which certain military offences were described by the articles of war, and from the power to inflict optional punishments, was conceded to Courts Martial. But it was explained to be a *sound discretion*, instructed by the law, and operating through the law; and essentially different from a *legislative* power to punish offences, not classed and specified by the articles of war. For instance, if an officer be charged with contempt or disrespect, or with contemptuous or disrespectful words, or with scandalous, infamous behaviour; or with conduct unbecoming an officer &c. the Court must exercise a sound discretion in discriminating the moral and legal character of the particular acts, charged and proved as coming under any of these denominations. It is, nevertheless, absolutely bound by the legal definition of the offence, however general; and, before conviction, or punishment could follow, it must judicially determine the acts or words, to be contemptuous, or disrespectful, or scandalous and infamous, or unbecoming an officer &c. and, that upon no *inferior* species of immorality, could it judicially animadvert. So that, in effect, the Court was exercising the ordinary function of expounding the true intent and operation of a statute, from general or doubtful terms; a function only rendered so much the more difficult and perplexing, as the terms were vague or doubtful; and, though the acts that constitute the offence, were not *defined* by the law, yet the offence, as a species, was defined, and the Court was bound by that definition. It was also admitted, that, in so far as the general heads of offence, laid down in the ar-

(*x*) Vide Mc'Arth. v. 1. ch. 4. s. 1. p. 42. & v. 2. ch. 8. s. 9. p. 297.

ticles of war, embraced aggravated, tho' undefined misconduct, or immoralities, the Court, in the exercise of that sound discretion, by which the moral character of actions was to be determined, might be viewed, as, in some sort, a Court of *Honour*; because the actions to be animadverted on, were to be judged by rules of honour, and not by strict legal definitions; but in so judging them, the Court was bound by the law, to take cognizance only of such improprieties as amounted to the degree of moral turpitude required by the law. The Court, 'tis certain, had the *power* to adjudge any thing scandalous and infamous; but, then, its solemn judgment must be, and that upon the responsibility of its judicial character and oath, that the act was scandalous, infamous, &c. If any inferior degree or higher shade of misconduct or immorality, should be so determined, it must rest upon the conscience of the Court, as a misjudgment, and an abuse of the law. In short, the law had, in general terms, defined the species, the quality and degree of the offence, and it was the duty of the Court, before it condemned or punished, to see that the facts came up to the legal definition; *ample as was the* field of judgment and discretion, in respect of the infinite variety of actions, and the nice and diversified shades of their moral character, which might be embraced in the general terms of the definition. It has been remarked, that the only part of our naval code, from which this function of a Court of *Honour* can be, in any sense, inferred, is the third naval article of war, which, after enumerating among the heads of offence, punishable by it, oppression, cruelty, fraud, &c. ends with the sweeping clause of "any other *scandalous* conduct, tending to the destruction of good morals." (7.) The more vague and general description of "immoralities, misbehaviour, or neglect of duty," punishable in a soldier, under the mutiny act of Britain; or of "conduct unbecoming an officer and a gentleman," punishable under the military articles of war, in this country, are wholly omitted in our naval code; nor is there to be found in it, any such article, as "scandalous, infamous behaviour, unbecoming the character of an officer and gentleman," which is common both to the military and naval codes of Britain; but this third article of our naval code is nearly modelled after the second article in that of Britain. (8) Upon the principles, already laid down, it was conceived to be clear, that this Court, as a Court of *Honour*, judging the moral character of actions under this article, could take no cognizance of any that fell short of the aggravated degree of misconduct, supposed by the article; namely, "scandalous conduct, tending to the destruction of good morals;" and, at least of as grave import, as the preceding enumeration of "oppression, cruelty, fraud," &c. But it has been asked by my Counsel, and I ask again, what is there in the charge, or in any one of the specifications, that imputes, either directly, or by inference, any

(7.) Laws U. States, vol. 3, p. 357.

(8.) Vide McArthur, vol. 1. app. No. 1, p. 325.

within the jurisdiction of a Court of *Honour*, or which may not, l ought not to be the subject of special enactment, if it be ught that sound policy and the good of the service, required t they should be brought under the judicial cognizance of a urt Martial? This question was put in reference to the *terms* of *accusation;* I now put it in reference to the proofs; and chalge the severest test for every word and deed which the minute ustry of the prosecution, stimulated by provocations, real or posed, has been able to call up against me. Whatever errors, inadvertencies, or indiscretions, it may please them to impute to , let any one word or deed be pointed out, as approaching in the notest degree to the character of scandalous conduct; or, as in r other sense, soliciting the animadversion of a Court of *Honour*. nderstand, this legislative power, over the subject of military mes and punishments, to be claimed for the Court, not only in imputed capacity of a Court of Honour, but in right of a general isdiction extending to every sort of transgression, which, acrding to sound and discreet views of policy and expediency, ght to be repressed as tending, immediately or remotely, to the axation of discipline, and which the good of the service requires be punished as military offences. I shall not stop to dilate upon e nature or consequences of a doctrine so abhorrent to the first nciples of civil and military polity: these topics have been am- treated, by my Counsel, in reference to military, as distinguished m civil life. I shall, therefore, confine myself to a brief notice the single authority, upon which this most extraordinary doce, has been advanced; namely, the 32nd of our naval articles war, declaring that "all crimes committed by *persons* belonging the Navy, which are not specified in the foregoing articles, shall punished according to the *laws* and *customs* in such cases, *at sea*." is article is copied with slight variations of phrase, from the th of the British Naval articles; which, in the concluding mem- r of the sentence, speaks of the laws and customs *used* at sea. (1) vonder it had not struck the acute and discriminating mind of the dge Advocate, how unlikely it was, that this article could have y relation to the powers or jurisdictions of Courts Martial, since the authors who have, with more or less of labour and minutess, treated of the law and practice of such Courts, or of military v in general, have preserved an absolute silence on the effect of is article. From that circumstance, connected with the very usual and almost singular omission in the body of the article, of y reference to a Court Martial, the inference should have been ite obvious, that it alluded to a class of offences, and to set of laws and customs," not within the ordinary cognizance of a urt Martial: and in fact, it has always been understood, as refer- g to certain recognized laws and customs, necessary for the minur departments of police and discipline at sea, and having no neces-

(1) Vid. M'Athur, Vol. 1, app. No. 1, p. 336.

sary connection with the enumerated and defined subjects that come under the regular cognizance of Courts Martial. The history and practice of Courts Martial, both in Britain and in this country, may, it is believed, be examined in vain, for a single instance of any charge being exhibited or tried under that article. But, if it were otherwise, what argument does the article furnish in support of the proposition, which it is cited to prove; namely, that the Court may assume the function, both of legislators and Judges? The article gives the Court no power to define or to decide, what acts shall be held to be criminal under it; but, on the contrary, refers to known and established rules, by which the same are already supposed, to be defined and determined; namely, "the *laws* and *customs* used at sea." These may be unwritten laws, a sort of *common law* of the Navy, contradistinguished from its statute law, as comprised in the Naval articles of War; but they are, nevertheless, supposed to be fixed, known and obligatory; and this Court, if it have any jurisdiction of them, can act upon no case, that is not shown to have been already constituted an offence by these laws and customs; they must be proved and ascertained; or known to the breasts of the Court, as establishing the criminal character of the act charged and the nature and degree of the punishment incurred by it. Besides, what can the *laws* and *customs used at sea*, possibly have to do with any matter, either set forth, or proved under the 2d charge and its specifications; which relate exclusively to transactions on shore, in the heart of the country, and not in the execution or routine of any naval duty or service whatever? If these laws and customs be known to the Judge Advocate, or to the Court, let them be expounded and applied to the terms of the charge and specification or to the facts proved: if unknown, let old and experienced commanders, versed in the traditionary lore of marine law be examined, to identify and explain them. They must be known before any act can be punished as an offence against them. In the absence of such knowledge, they cannot be supplied by any discretion, judicial or legislative, in this Court. The Judge Advocate has referred to *the common law*, as defining and punishing murder and other crimes, without the help of statute law; and certainly, it never entered into the conception, either of my counsel or myself, that any objection or argument which had been urged on my part, vested on any distinction of the form of the law by which the offence was supposed to have been created and punished; nor is it quite obvious, what argument the punishment of offences, at common law may furnish, for the assumption of a legislative discretion, by a Court Martial, to punish any thing as a crime, which may appear to be mischievous or dangerous to the service, from any analogy to the jurisdiction of the common law courts. The analogy is wholly against the argument; for the common law is just as positive, limited and fixed a rule of action, as the statute law; and the very fact of the co-existence of the two, proves that the courts arrogate no extension of jurisdiction bordering on legislative discretion, from the unwritten or

prescriptive authority of the common law; but, on the contrary, when the public good requires any innovation on the established and defined boundaries of the common law, or any extension or modification of its terms, a recourse to the legislature to supply its defects, by statutory enactment, becomes necessary. Then if there be a Common law of the Navy, implied by these laws and customs used at sea, let it be exemplified, and applied to my case, with the same certainty and precision, as the common law to murder or other offences, defined and punished by it.

2d. The question on the form of the accusation, was supposed to have been settled by a concurrence of so many and such pointed authorities, all coinciding with the plainest dictates of justice, and with the most indispensable safe-guards of individual right and security, as to leave little or nothing to be said on the subject. There seemed to be little occasion, either in the general principles propounded, or in their application to the present case, for any strictures upon the mischievous consequences of permitting an evasion of justice, by means of nice and technical objections to form, or of captious verbal criticism. It would have been more to the point to have shown how the objections urged on my behalf, were too nice or technical, or required more than was necessary or usual to the wholesome forms of judicial procedure; and how the exceptions to the precision, or legal, or grammatical accuracy of the terms in which the offence was described, and the facts specified, were too nice and technical; or how they descended to the captiousness of verbal criticism, without affecting the substantial sense and meaning of the charge. It had been thought to be as obvious to the philosophical, as to the professional and practical observer, upon the principles of a regular and discreet jurisprudence, that it was far more just and safe to compel ministers of the law, to care and precision in the forms of procedure, than to set them loose from every wholesome restraint. The necessity and the value of these land-marks to human rights are enforced, no less by the rules of criminal judicature in military, than in civil tribunals: the theory in both is precisely the same, and the practice assimilated by the closest analogy. One of the most celebrated and useful of the authors who have treated of the law and practice of Courts Martial, has not failed to insist upon the comparative mischiefs arising from a disregard of, or a strict adherence to, established forms; and to demonstrate the wide spread and incalculable evils resulting from the one, and the very partial and occasional inconveniences from the other. (2.) This is followed by the distinct enumeration and clear definition of all those reasonable and proper rules, by which the form of accusations exhibited before Courts Martial is determined; and which are so repeatedly insisted on, and strenuously recommended by the same author, and numerous other authorities, cited in the course of the former discussion. The summary of these rules, as given upon

(2) 2 McArth. p. 11.

that occasion, and amply supported by reason and authority, bears, "the offence must be set out in such terms as bring it clearly and unequivocally within the law, or articles of war, by which it is made punishable, so that there shall appear a *certainty* of an offence in the charge; and, in some instances, it must be charged in the very words of the article, or statute supposed to be violated, and all the circumstances of the time, place, and manner of the acts charged, must be minutely described in the specifications; and the more vague and general the article of war, by which the offence is described and punished, so much the more particular and minute must be the specification. An indictment or criminal information in the Courts of common law, or, as some prefer, a libel in the Courts of the civil law, is referred to as the lowest admissible standard of the certainty, precision, and particularity required in an accusation before a Court Martial." (3.) By all this, it is by no means to be understood that the mere solemnities and technical forms of such pleadings are requisite; but those substantial parts that go to inform the party accused circumstantially and certainly, of what it is that he is called to answer. Upon a comparison of these prescribed requisites of a valid accusation, with the actual charge and specifications in question, the utter failure of the latter under the test, was obvious and palpable.

But there were not wanting expedients to evade the force of an objection unanswerable as I think in its terms. But the generality of the charge (it was said on the authority of Mr. Tytler) although it may not be absolutely reprobated by the military law, or amount to avoidance or annulling of the indictment, affording in every case a competent and weighty objection, upon the part of the prisoner which he may urge, to the effect of having the charge rendered *special*, by a pointed detail from the prosecution of the *particular facts* on which it is founded: and this requisition by the prisoner which is founded in material practice, no Court Martial can legally refuse "(4) the hypothetical and qualified terms which thus indicate a process for botching the defects in the original frame of the charge, are assumed as absolute; and as ruling that such defect" is not absolutely reprobated by the military law; and does not amount to a voidance or annulling of the indictment, "that a more precise and special statement of the matter of the charge is merely *recommended* as of *favour*; not required as of indispensable obligation, and it is concluded that the proper time and mode for me to have taken advantage of the objection, was before I had pleaded, and then to have called on the Judge Advocate for the *pointed* detail of *particular facts* on which the charge was founded" a "requisition (it seems) founded in *material justice*, and which no Court Martial can legally refuse." Be it so: but it has entirely escaped observation that

(3.) The authorities formerly cited, Adye, p. 127–8. Tytler, p. 206–18. 2 McArthur, p. 6-12. Mac. p. 61–8.

(4) Tytler ch. 5. s. 1 p. 213—14

this remedy applies to only half my objection, that it is limited in terms to the *generality* of the charge and specifications; and has nothing to do with so much of the objection as turns upon the inaccurate, confused, and absolutely unintelligible and unmeaning terms and phraseology in which the charge itself is couched. An indictment or other form of accusation may be extremely objectionable for its generality, while its meaning may be manifested by language quite grammatical, clear and intelligible. "'Tis, also somewhat perplexing to comprehend, why the *Court Martial* cannot legally refuse the requisition for this" pointed detail of particular facts; "if there be *legal obligation* on the *prosecutor* to "prevent the *objection*," and the consequent necessity for such a requisition, by avoiding the original fault that is to produce them.

It might further be asked, upon what authority this requisition is restricted to the time of arrangement before plea; especially a plea admitted under a protest, reserving the identical exception; and why the evident defects of the charge and specifications, have not, when so repeatedly complained of, been amended; as might have been done with a tythe of the pains and labour bestowed upon the justification of them?

But this mode of evading the force of the objection, by proposing a *succedaneum*, was anticipated. and effectually obviated, in the preliminary argument by which the objections were contained. It was shown that the rule did not rest upon the general law and practice of Courts Martial only, cogent and conclusive as were the authorities, by which such law and practice had been ascertained; but that it had been incorporated and consolidated with the mass of our Naval articles of war, and so, had acquired all the force and authority of positive enactment. For this the 38th article was referred to, which expressly requires that "the person accused be furnished with a true copy of the *charges*, with the specifications, at the time he is put under arrest" and makes them afterwards unalterable but upon certain extraordinary contingencies, specially stated in the body of the article. (5) Now as the full import and meaning of the term specifications, had been determined by the precedent law and practice of Courts Martial, it must be held to have been adopted by Congress according to its technical import: and to have had precisely the same effect, as if Congress had descended to more minute legislation; and had in terms, required all the "pointed detail of particular facts" which it seems, a Court Martial could not have legally refused to enforce, when properly required. Mr. Tytler, in the very passage which is relied upon as conceding the practice of amending the charge, after the Court has assembled, for the trial of it, clearly excepts charges under a particular article of war, in which it was thought just, on account of the generality of its terms expressly to require specifications: and he very hesitatingly yields to the inference, that because they are not expressly required up-

(5) Vid. Laws U. S. vol. 3. p. 358.

der the other articles, the omission is not fatal and incurable under any other; "may not amount to a voidance or annulling of the indictment. "Indeed the practice of altering the charge after the Court has assembled, is directly contrary to the general rule stated by all the authorities before cited; and the few precedents that have formed exceptions to it, are stated as very questionable in principle.

The answer offered to this argument is curious. 'Tis said that this statutory rule, requiring specifications, and forbidding a subsequent alteration of the charge was introduced for the benefit and advantage of the person accused; who is always competent to renounce it; and if he desires more minute specifications, he must renounce the rule and permit the amendment. So a rule introduced for the benefit of the person accused, and of imperative obligation upon the prosecuter, is violated to the disadvantage and injury of the person accused: but he cannot except to such *illegal* violation of the rule, unless he agrees to purge his adversary's fault, by renouncing the very right that has been invaded. If this be not a virtual repeal of the law, why, the chasm in the chain of cause and effect is utterly imperceptible to my common sense.

The rationale of this rule, and its highly beneficial character, were illustrated by the citation of another, vouched by the same authorities, and designed for the same beneficial end, namely: that which required, that the person accused, should be furnished with a list of the witnesses to be adduced against him, together with a copy of the charge, in order to enable him not only to make the best preparation to meet the *facts* to be adduced against him, but also to invalidate the testimony of the witnesses, if practicable. The concurring authority of the four authors already cited, is unceremoniously set aside by some posthumous notes of the late Judge Advocate Genl. of England, introduced into the preface to the last edition of Mr. Tytler's essay. But a more careful examination of those notes, will show that the rule is not denied as one of general, but of universal application, and that nothing more than its relaxation in certain excepted cases, is insisted on.

But against all the force of general learning and authority, confirmed by statutory enactment, numerous examples of the actual form of charges and specifications, tried before our Courts Martial, have been industriously collected. And for what purpose? Is it imagined that any positive number of bad precedents, silently creeping into practice, and never having received the sanction of a judicial confirmation, can be competent to overrule a rule, a law so positive and so authentically vouched? The authors who have laid down the rule and illustrated its utility and necessity, all advert to certain partial violations of it, which are not cited as precedents, but as examples of irregular practice to be avoided. 'Tis true that the precedents collected by the Judge Advocate, seem, for the most part, to be extremely defective in minuteness and precision of specification; but by how many degrees do they excel the present charge in legal

precision and propriety of phrase. There is scarce one of them, but charges in direct terms some heinous offence ; scandalous falsehood ; forged letters ; malicious, false, and scandalous libels, &c. &c. But, whatever be the character of these precedents, they cannot be opposed to a well defined and positive rule of law, but may only serve to illustrate the necessity of enforcing it.

The argument of inconvenience is called in aid ; and voluminous documents with which, upon our plan it would have been necessary to stuff the specifications, are insisted on, as if so necessary and beneficial a rule of law were to give way, in order to save the prosecutor the trouble of writing. But this objection is merely fanciful. It was only necessary to have specified the passages in the letters and other papers complained of as disrespectful, or untrue, with the same particularity and conciseness, as in an indictment or declaration for a libel.

These exceptions were, in the first instance urged on my part, under a firm conviction, that they were unanswerable ; having embarked in them, their importance required that they should be sustained. I have felt no other solicitude, as they relate to my own particular case, but to avoid the being unwarily entrapped by vague and ambiguous phrases, into such a dilemma as that the Court should feel itself compelled to find the fact against me, of writing or publishing what I never denied, without the necessity of imputing to it any specific degree of legal or moral impropriety.

I shall now proceed to a cursory and brief consideration of the charge and specifications in their order, as connected with the evidence.

Charge 2. The analysis that has already been made, of the terms of this charge ; and the manifest failure of every attempt to expound from them any intelligible meaning ; far less a precise charge of any specific act, punishable under the Naval articles of war ; may dispense me from any other notice of it, than a few explanatory remarks. When exception was taken to the new coined, or new compounded adjective, "insubordinate," nothing was less intended, than nice verbal criticism : and, after all that has been said, the practice of so characterizing the criticisms upon the present application of the terms is not perceived. Nor was there any idea of denying absolutely the propriety on proper occasions, and with the necessary skill of introducing words, with new forms of composition ; or with any other impress of a new coinage. The lawfulness of such coinage, and the rules by which it should be governed, have been too long established by a celebrated production of a witty, and poetical critic of antiquity, to be now questioned : though, it must be confessed, that the dry and solemn details of an indictment, or criminal charge, do not furnish the happiest occasion, or the most legitimate subject for such adventurous essays. Neither the propriety, in general, of the arbitrary composition of a noun with a privative particle, when the writer desired to express some quality of contrariety, to the primative noun ; now the *callida punctura* of insubordinate, when applied to the same philosophical ideas, as the

primative adjective, was called in question. The gist of the objection was that subordinate had never acquired by well established use, nor even by any use popular or technical, any meaning different from that affixed to it, in philosophical and literary language: that such meaning was utterly unappropriate and incompetent to denote the presence of any military or other virtue in an individual: consequently, the new and arbitrary composition of the word with the privative particle, (unknown to any vocabulary of the language and without any fixed or known meaning, beyond the mere contrariety of its primative) was equally unappropriate, and incompetent to express, the presence of any military or other vice or crime in an individual. What connection this may have with the speculative and impracticable notion, censured by professor Stewart, of cramping and impoverishing written and oral language, by repudiating every signification, not deduceable from the radical or primitive sense of words; as *species* of the same *gems;* is not so obvious. A conjecture was indulged that "insubordinate conduct" might possibly have been intended as a paraphrase of another term, which was likewise to be formed by the composition of a noun with a privative particle: and that was insubordination: and no other appropriate or intelligible meaning could be inferred from the application of that term to the matter of the charge, but *disobedience* of *orders* which made it identical with the first charge, and stripped it of all relation to, and support from, the specifications annexed to it. The Judge Advocate has seized upon the identity of "insubordinate conduct," and "insubordination," but by what analogy is not explained. The substantive *subordination* is admitted to have acquired a more extended meaning in military language, than in philosophical language, or literary composition; and one, very remotely, if at all, deducible from its radical or primitive sense, while the adjective "*subordinate*," is invariably used in military language, as in all admissible usage, with the strictest analogy to its radical sense, and therefore the adjective, whether simple or compounded, being so confined to its radical sense, cannot be made to denote the new and extended signification of the substantive, either in its simple or compounded form. Numerous authorities are cited to prove that subordination is established by general and approved usage, as applied both to military individuals, and to military bodies collectively: and some authorities for insubordination applied to military bodies collectively, and the great aim of all this learned and laborious research, is to prove that *subordination* has other significations, in relation to military matters, than mere obedience to orders. Doubtless it is used in a variety of senses in reference to military matters; when applied to collective bodies, it indicates the regular series and gradation of ranks, and the principle of cohesion and organization that preserves them in their order; in that sense it is opposed to anarchy or disorganization; and in that sense it is utterly unappropriate and incompetent, either simple or compounded, to denote the presence or absence of any military crime or offence in an individual. The only possible application of it, that can express such an idea,

is to an individual of a military body, and the only quality it can predicate of him, at all to the purpose of the present charge, is obedience or disobedience of orders.

The Judge Advocate rejects this signification, as reducing the two charges to a state of absolute identity of meaning and effect; and yet, after all the long and devious huntings after a meaning, no precise or definite one, different from this, is suggested. The argument, in support of the charge, highly creditable as it is, in other respects, to the learning and ingenuity of its author, is just as void of precision and of specific intent, in its conclusion, as the charge itself.

I submit it, without further remark, to the judgment of the Court, whether the 2d charge be not so indefinite, and so incapable of any appropriate meaning, from which a criminal offence may be inferred, as to strip it of all efficacy, as a charge, under which any judicial trial may be had. The charge falling, every specification depending on it, falls with it, as of course. I desire, nevertheless, to be indulged with a few remarks, upon the merits of each of the specifications.

SPECIFICATION 1ST.

If the strictures, upon the terms of the charge itself be, at all founded, this specification must be clearly untenable; while, on the other hand, a successful argument in support of the general charge, would not help the specification. For, after it shall be made to appear that "insubordinate conduct," predicated of a moral agent, is equivalent to "*insubordination*," and so denotes some military offence in such agent, it must still remain an enigma, what "insubordinate character" means, when predicated of a *letter*. The moral agent may commit a breach of subordination, by writing a letter, when forbidden, or not writing, when commanded; but, what positive quality of subordination, or insubordination, may inhere, in the letter itself, is the mystery.

The "*insubordinate* character," charged upon these letters, is altogether unintelligible and absurd; their "*disrespectful* character" too vague and uncertain, to produce any legal consequences.

Disrespect, in any form of words, written or oral, is not recognized as a species of offence, in the *naval*, as it is in the military articles of war. If the latter, it was defined and limited by a specific enumeration of the personages, to whom the offence might be offered; and from that enumeration, the Secretary of War is excluded; and there could be no possible reason, why the feelings of the one Secretary should be held any more sacred and inviolate than the other; still less, that the naval articles should have interpolated in them a new and fanciful species of offence, merely for the sake of placing the one of these officers upon a footing of pre eminence over the other. The Naval articles punished *contempt* to a superior officer, while in the exercise of the duties of his office: no species of disrespect, short of contempt, so manifested, could be pun-

ishable under these articles. Contempt, so manifested, implied something more than mere words; it implied either acts or words, attended by the practical consequence of impeding or insulting a superior officer, in the very act of discharging his duty: it stood next in degree to *mutinous* words. What should constitute disrespect, either in a verbal or written communication, is altogether arbitrary—depending upon etiquette, in many instances; and, upon certain minute observances, wholly beneath the gravity of judicial notice. What might be entirely unexceptionable on one occasion, might be highly disrespectful on another. Besides, the Secretary of the Navy, if he be intended as the person to whom these letters were disrespectful, does not stand in the relation of *superior officer*, contemplated by the Naval Articles of War, which evidently refer to the gradations and relations of mere military rank. The Secretary of the Navy is exclusively a *civil* officer, without military rank, or other connection with it, than as the organ of communication between the Executive and the officers of the Navy.

But, after all, what is there *disrespectful* to any body in these letters? They complain of real or supposed grievances. They freely remonstrate—it is true—and when affairs of the Navy or Army may not do that with impunity, they must be abject indeed, if not debased. The military articles of war, expressly authorize the appeal of the meanest soldier; and so, through all the gradations of military rank, when he thinks himself *wronged*. Then any officer or soldier of the army may complain of *wrong* from his immediate superior, without offence; and what shall restrain an officer of the Navy, from complaining and remonstrating against alleged injustice? The question is not now triable by this Court, whether I were *well* grounded in my complaint, but whether it were urged in indecent or abusive language.

The examples of free and uncensured complaint and remonstrance from military men, to or against their superiors, are numerous in the services of this country and of Europe.

If I were called upon to explain or justify the tone of complaint, indicated by the correspondence now produced, I should be at no loss to specify such reasons, as upon the coolest reflection, I still think well founded.

The manner of my recall, so incommensurate as I then knew, and as I still know, with the merits of my conduct; which, if it had been as well understood then, as it must be now, I do verily believe would have been applauded, instead of being censured. The inequality between the treatment I received, and that extended to others, under like circumstances;—the continuing to hold me up, without investigation, and for so long a time after I tendered myself prepared for the investigation, were all circumstances that bore hard upon my thoughts.

The contrast in the triumphant and magnanimous support of General Jackson, against the heaviest and most menacing cloud of discontent; and in the delicate treatment of Captain Cassin, (as ex-

plained in the order from the Navy Department to me of the 9th April, 1823,) who had the option to come home to explain his conduct, or to transmit a written explanation against grevious complaints, (severe and unjust as they were) of the Spanish Minister, all conspired to convince me that I had, in some way, forfeited the favour of the administration. Nor did the administration appear so instantly and spontaneously struck with the enormity of my transgression, at Faxardo, as to account for my severe treatment. For my official report of the transaction, lay for more than three weeks unnoticed in the Department, and my letter of recall, bears date on the very day, (27 December, 1824,) that the inquiry concerning the affair, was moved in Congress. Besides, the Secretary's letter to me, April 20th, 1825, seems willing to ease off the weight of the blow, by mixing up other causes for my recall. I had, it is true, intimated a conditional wish to be relieved from the command, but I could never have inferred, from the tenor of my letter of recall, that it was in any degree, caused by such intimation.

I take this occasion to say, that I should despise myself, if I were capable of insult or rudeness to a gentleman, to whom I stood in my then or present relations to the President, and to the Secretary of the Navy. I should hold it as unmanly, as to stand mute and awe struck, when I conceive myself justly entitled to complain. If any passage of my letters could reasonably have borne such a construction, I should been grieved, and would unhesitatingly have discovered the inference.

SPECIFICATION SECOND.

What law or what usage prohibit a public report of the proceedings of any Court, after the judicial function on that subject, had been executed and the Court dissolved? The only possible mode in which an offence can be committed, by the publication, in detail, of judicial proceedings, is whilst they are pending, and may be prejudiced by the publication; and in that case, the character and degree of the offence is a contempt of Court, punishable as a contempt by the identical tribunal whose authority is insulted, and punishable in no other way. The proceedings of the Court were necessarily public, but it is allowed that the printing of detailed statements of them, pending the trial, is improper, because it operates practical mischief on that identical proceeding. But when the trial is finished, the mischief ceases; and upon the dissolution of the Court, the only authority that could have taken cognizance of the offence, had ceased.

SPECIFICATION THIRD.

This specification, in so far as the charges, simple inaccuracies in my statement of the proceedings of the Court of Inquiry, is frivolous in its terms; and it turns out to be still more so in the proof. For, if every variance between the printed report and the record, could justly be charged as the mistakes of the former, they were wholly immaterial, and it is too favourable a representation of them, to say they were merely verbal; for they even descended into the

minutia of punctuation and orthography, and even of emphasis, if such may be understood by the term of *italicising*. The only circumstances that could have given any legal or moral effect to this specification, would have been to charge substantial errors in the printed report, materially varying the sense, and to have charged them as proceeding from a corrupt and malicious motive; but the variances are not proved to have been chargeable to any mistake of mine, or my clerks. In the original record, in more than a dozen instances, where erasures appear, and words are interlined or added, in a different hand-writing from the body of the record, clearly shewing alterations to have been made on its face, after it had been fairly transcribed from the original minutes of the Judge Advocate: my copy reads to the greatest exactness, with a fair transcript, before it was altered, retaining all the passages erased, and omitting all those interlined, or added. Then there are two evidences in favour of the original correctness of my copy, viz: the clerk, who originally transcribed from the Judge Advocate's minutes, and the clerk who copied for me; from which it clearly appears, that these differences were produced, not by the error of my copying clerk, but by alterations of the minutes or record, after my copy had been given out. I presume the Judge Advocate had a right to make these alterations, and I complain not of them; but I do complain of their being made the ground of a serious charge of incorrectness in my publication. The record contains other circumstantial evidence, most convincing to the same point; but I forbear to enter into further details. One of the most important differences between the two copies, consists of an amendment of the original minutes ordered by the Court itself; which amendment I inserted in its proper place, and erased the erroneous entry which that amendment should have supplied. Whereas the Judge Advocate left the original minute to stand as erroneously entered, and entered a minute of the amendment in another place. As to such documents and proceedings as are charged to have been omitted, I accounted for the omission on the face of the publication, by stating I had applied for them, and could not obtain them. As to the transposition of the documents, that is explained to mean an inversion of the order, in which they had been originally placed and numbered, and needs no remark, as it stands on a level with their errors in grammar, orthography, punctuation, emphasis, &c.

SPECIFICATION FOURTH.

What is unwarranted by fact, or what disrespectful to the Secretary of the Navy, or the Court of Inquiry, in any of the remarks, statements, or insinuations, here complained of, has never, to this day, been explained. That complaints are made to the Secretary of the Navy, of acts to which he was the organ, is true, that certain proceedings of the Court of Inquiry are remarked upon, and freely criticised, but in terms wholly unexceptionable. I have not assailed their motives, nor their understandings, but have endeavoured to demonstrate certain errors in judgment, that bore hardly, as I

conceived, upon my particular case. What may be the standard of the deference and respect due from a military or naval officer, to a military or naval Court of Inquiry, I know not. But this I know, that complaint and remonstrance, from persons far more delicately situated towards the persons addressed, and the intercourse between whom is guarded by far more jealous punctilios :—I allude to the relation between a military officer, and the legislature of his country ; and I cite, as an example, the memorial of General Jackson to the Senate, in which he freely and severely censures the proceedings of a Committee of Inquiry. Let the terms of my complaint be compared with those of General Jackson's memorial, and it will plainly appear, how much I kept myself within the allowed limits of complaint. Yet the Senate, after debate and full deliberation, voted the memorial unexceptionable, and ordered it to be printed. And General Jackson lives in the heart of the nation—an honoured member of the very Senate which had so magnanimously brooked the freedom of his remonstrance ; and only second in the competition for the highest honours of the State.

SPECIFICATION FIFTH.

This specification, both as stated in terms, and as made out in proof, assumes that it is a military offence, punishable by a Court Martial, for an officer to make public any communication whatever ; no matter how innocent or indifferent, without first obtaining leave. Upon what authority so strange a position is assumed, is not explained, nor it may be easily conjectured. If secrecy be enjoined, either expressly by the terms of the communication, or implicitly by its nature, and the injury to the public service, which a disclosure might produce, the publication of it would be highly improper, and, according to circumstances, might bring him in the danger of the legal charge of *scandalous conduct*. But as to official communications in general, not impressed with this special character of secrecy, there is usually less delicacy or reserve concerning them than is customary with the correspondence of private gentlemen ; because the former are, in some sort, public documents, and the same motives of delicacy are not applicable to them The correspondence here charged as published, without leave, was thought necessary to the exposition of some part of my conduct before the public ; and I contend, there was no possible injury to the service from its publication.

Having gone through all the stated charges and specifications, it seems I am called upon, to answer some collateral matter having no manner of connexion, with the real merits of any question involved in the present trial : unless it be supposed, to be a legitimate mode of attack, to eke out the defects of the existing charges and evidence, by throwing the weight of an eminent man's character and opinion into the scale against me. I allude to the deposition of Mr. Monroe, taken without any legal authority, and containing within itself not a tittle of evidence, that can or ought to operate against me

with any, but the narrow minded and the servile. In so far as it imports any disapprobation of my conduct, it is by ripping up some old causes of dissatisfaction which ought not to have had any influence upon the conduct of the late administration in relation to the affair of Faxardo: and if it shall appear that they had such influence, I should rather consider it as furnishing me with new ground of complaint, instead of accumulating or aggravating any of the complaints, wether well or ill founded, against me. I do infer, in the absence of all explanation of the purposes for which this deposition is adduced, that one of them is to take upon the late President all the responsibility of the various orders from the Navy Department of which I had at different times complained. If this means that I should have complained of the President, instead of the Secretary of the Navy, it implies that what was disrespectful to the head of the Department, would have been quite decorous to the chief magistrate. The truth is, that all my complaints of the manner of my recall, were addressed to the Secretary of the Navy as the regular organ through which I communicated with the administration: and whatever use, I made of the personal pronoun in describing the source of the measures complained of, I should have been understood as speaking of the administration collectively: As to the short correspondence between Mr. Monroe and myself in March last, it was with the utmost surprise that I received an intimation during the present trial that it had been deposited in the Navy Department. Not that I mean to complain of its surrender to the purposes of the prosecution, but simply to express my surprise that a correspondence so trivial in itself, and merely personal in its concern, should have received so solemn a destination. Indeed the inoffensiveness of its contents serve to shew how securely I might challenge investigation, since the most unscrupulous use of a private correspondence had produced nothing of which I ought to be ashamed. If there were any thing that I could now desire, to have expunged, the wish was dictated by a feeling of pride which I think it meritorious to repress; without regretting any errors of sentiment into which I may have been betrayed by any warmth or cordiality of temper.

D. PORTER.

Extracts from, and references to, the President's Messages to Congress, and the Documents accompanying the same, in relation to the transactions of the squadron under command of Commodore Porter; all which are referred to in his Defence, and requested to be taken as part thereof.

Extract from the President's Message to Congress, at the commencement of the 1st session of the 18th Congress, Dec. 2d, 1823.

"In the West Indies and the Gulf of Mexico, our naval force has been augmented, by the addition of several small vessels, provided for by the 'act authorizing an additional naval force for the suppression of piracy,' passed by Congress at their last session. That armament has been eminently successful in the accomplishment of

t. The piracies by which our commerce in the neigh-
l of the Island of Cuba had been afflicted, have been re-
and the confidence of our merchants in a great measure

patriotic zeal and enterprise of Commodore Porter, to
e command of the expedition was confided, has been fully
by the officers and men under his command. And, in reflect-
high satisfaction, on the honourable manner in which they
tained the reputation of their country and its navy, the sen-
alloyed only by a concern that, in the fulfilment of that ar-
rvice, the diseases incident to the season, and to the cli-
which it was discharged, have deprived the nation of many
es, and among them, of several officers of great promise.
month of August, a very malignant fever made its appear-
hompson's Island, which threatened the destruction of our
ere. Many perished, and the commanding officer was se-
tacked. Uncertain as to his fate, and knowing that most of
cal officers had been rendered incapable of discharging their
was thought expedient to send to that post an officer of
experience, with several skilful surgeons, to ascertain the
f the fever, and the probability of its recurrence there in
asons; to furnish every assistance to those who were suf-
d, if practicable, to avoid the necessity of abandoning so im-
station. Commodore Rodgers, with a promptitude which
honour, cheerfully accepted that trust, and has discharged
manner anticipated from his skill and patriotism. Before
al, Commodore Porter, with the greater part of the squad-
l removed from the Island, and returned to the United
n consequence of the prevailing sickness. Much useful
ion has, however, been obtained, as to the state of the Is-
d great relief afforded to those, who had been necessarily
e.

gh our expedition, co-operating with an invigorated adminis-
f the Government of the Island of Cuba, and with the cor-
ng active exertions of a British naval force in the same seas,
ost entirely destroyed the unlicensed piracies from that Is-
success of our exertions has not been equally effectual to supe
e same crime, under other pretences and colours, in the
ring island of Porto Rico. They have been committed
der the abusive issue of Spanish commissions. At an ear-
d of the present year, remonstrances were made to the
r of that Island, by an agent, who was sent for the pur-
gainst those outrages on the peaceful commerce of the
States, of which many had occurred. That officer, profes-
own want of authority to make satisfaction for our just
its, answered only by a reference of them to the Govern-
Spain. The Minister of the United States to that Court
cially instructed to urge the necessity of the immediate and
l interposition of that Government, directing restitution and

indemnity for wrongs already committed, and interdicting the repetition of them. The Minister, as has been seen, was debarred access to the Spanish Government, and in the mean time several new cases of flagrant outrage have occurred, and citizens of the United States in the Island of Porto Rico have suffered, and others been threatened with, assassination, for asserting their unquestionable rights, even before the lawful tribunals of the country."

Vide printed message, p. 9—10.

Extract from the Report of the Secretary of the Navy to the President of the United States, Dec. 1, 1823, accompanying said Message.

"On the western side of the Atlantic Ocean, and in the Gulf of Mexico, the operations of our naval force have been more active. Several vessels were in commission there at the close of the last year. To these were added, under the authority of the law passed at the last session of Congress, 'authorizing an additional force for the suppression of piracy,' the steam galliot Sea Gull, eight small schooners, the Grey Hound, Jackall, Fox, Wild Cat, Beagle, Ferret, Weazel, and Terrier; five barges, the Musquito, Gnat, Midge, Sandfly, and Gallinipper; and one transport ship, the Decoy.

Captain David Porter was appointed to the command of the squadron, and sailed from Norfolk about the 10th of February last. His station was at Thompson's Island, from which he despatched his vessels in such way as he judged best suited to attain his objects. The annexed extracts from his letters and reports exhibit the results.

The size of most of the vessels, the nature of the duties, and the exposure of the officers and men, called for a display of perseverance and fortitude seldom required of those engaged in our service—but the call was well answered. Every thing was accomplished which was anticipated from the expedition. Piracy, as a system, has been repressed in the neighbourhood of the Island of Cuba, and now requires only to be watched, by a proper force, to be prevented from afflicting commerce any further in that quarter. The public authorities of the Island of Cuba manifested a friendly disposition towards the squadron, and rendered much assistance in the pursuit of its objects.

On the 5th March, as Lieut. Cocke, in obedience to the orders of Captain Porter, was entering the harbour of St. Johns, Porto Rico, in the schooner Fox, he was killed by a shot from the castle. Extracts from the correspondence between Captain Porter and the government of the Island, on this subject, are annexed.

The squadron was healthy and prosperous, until about the middle of August, when a malignant fever broke out at the station, and destroyed many valuable lives. The first reports of this calamity were brought to the Department on the 17th September. At the time they left the island, Captain Porter and most of the medical officers were sick, and there was great cause to fear that the squadron would be deprived of its commanding officer, and of the medical assistance necessary to its safety. Under these circum-

stances it was considered expedient to send to the station an officer of rank and experience, with a sufficient number of Surgeons, to furnish, in any event, the aid necessary for the safety and proper conduct of the squadron, with power to remove it, should that be found necessary. Captain Rodgers cheerfully consented to encounter the hazard and responsibility attendant on such an expedition. He sailed from New York as soon as a vessel could be prepared for the purpose; but, before his arrival, Captain Porter had become convalescent, and, with the greater part of the Squadron, had returned to the United States. The reports of these officers will fully explain their views of the causes of the disease, and the means by which a recurrence of it may be prevented.

It is believed, that the Florida station is incalculably important to some of the best interests of this Union; and that it ought not to be deserted, until every expedient has failed to render it a secure and healthy position, for our vessels. I feel great confidence in the opinion that it may be made such, without encountering great hazard of the evils we have heretofore suffered.

For the protection of commerce, and the suppression of piracy, in the Western Atlantic and Gulf of Mexico, it is proposed, in the ensuing year, to continue Thompson's Island as the station for the vessels employed in those objects; to place there a ship of the line, armed and manned as a frigate, for which purpose the Independence is well fitted; and to attach to the command the John Adams and Hornet, and one other sloop-of-war, with four of the larger schooners, the Grampus, Porpoise, Shark and Spark, one of the smaller schooners, and the barges. This force is competent to protect all our interests. The ship of the line, placed in a proper position, will afford comfortable accommodations to those who are obliged to remain at the station, and prevent the necessity of intercourse with the island, when danger is suspected. The cruises of the other vessels, except those which visit the coast of Africa, may be limited to four, five or six weeks, and on their return, their crews may be exchanged for others, who, during the time, have been stationary. By these means, and a proper attention to cleanliness, both in the men and the vessels, and avoiding intercourse with places known to be sickly, the health of all will probably be preserved. For the proper execution of such a system, full reliance may be placed in our officers. The island itself, by clearing, draining, and cultivating, will, after a time, probably become more healthful.

It will be perceived, that this distribution of force includes only one of the small schooners. They were admirably calculated for the end for which they were purchased, and have effected it. But piracy being for the present, repressed, and requiring only such a force as will prevent its revival, they are no longer necessary; and, being both very expensive, and utterly subversive of all discipline, it is respectfully recommended that they be sold, retaining one for the present season; after which, it may be sold."

Vide printed documents accompanying said message, p. 113—15-

Copies of correspondence of Commodore David Porter, and officers of the Squadron, under my command, in relation to the suppression of piracy, accompanying the said report, and the President's said message; and for which, reference is here made to the copies of the said documents, printed by authority of Congress—from page 136 *to page* 194, *inclusive.*

Extract from the President's Message to Congress, at the commencement of the Second Session of the 18th Congress, Dec. 17th, 1824.

"The force employed in the Gulf of Mexico, and in the neighbouring seas, for the suppression of piracy, has likewise been preserved essentially, in the state in which it was during the last year. A persevering effort has been made, for the accomplishment of that object, and much protection has thereby been afforded our commerce; but still the practice is far from being suppressed. From every view which has been taken of the subject, it is thought that it will be necessary rather to augment, than to diminish our force, in that quarter. There is reason to believe, that the piracies now complained of, are committed by bands of robbers, who inhabit the land and who, by preserving good intelligence with the towns, and seizing favourable opportunities, rush forth, and fall on unprotected merchant vessels, of which they make an easy prey. The pillage thus taken, they carry to their lurking places, and dispose of afterwards, at prices tending to seduce the neighbouring population. This combination is understood to be of great extent, and is the more to be deprecated, because the crime of piracy is often attended with the murder of the crews; these robbers knowing if any survived, their lurking places would be exposed, and they be caught and punished. That this atrocious practice should be carried to such extent, is cause of equal surprise and regret. It is presumed, that it must be attributed to the relaxed and feeble state of the local governments, since it is not doubted, from the high character of the Governor of Cuba, who is well known and much respected here, that if he had the power, he would promptly suppress it."

Vide printed Message, p. 12, 13.

Extract from the report of the Secretary of the Navy to the President of the United States, December 1, 1824, *accompanying the last message.*

"The manner in which the force assigned to the protection of our commerce, and the suppression of piracy in the West Indies, has been employed, will be seen by the annexed letters and reports of Commodore Porter, marked C. The activity, zeal, and enterprise of our officers, have continued to command approbation. All the vessels have been kept uniformly and busily employed, where the danger was believed to be greatest, except for short periods, when the Commander supposed it necessary that they should return to the United States, to receive provisions, repairs, and men, and for other objects essential to their health, comfort, and efficiency.

No complaints have reached this Department of injury from

privateers of Porto Rico, or other Spanish possessions; nor have our cruisers found any violating our rights. A few small piratical vessels and some boats have been taken, and establishments broken up, and much salutary protection afforded to our commerce. The force employed, however, has been too small, constantly to watch every part of a coast, so extensive as that of the islands and shores of the Gulf of Mexico, and some piratical depradations have therefore been committed; but they are of a character, though, perhaps, not less bloody and fatal to the sufferers, yet differing widely from those which first excited the sympathy of the public, and exertions of the Government. There are few, if any, piratical vessels of a large size in the neighbourhood of Cuba, and none are now seen at a distance from the land. But the pirates conceal themselves, with their boats, in small creeks, bays, and inlets, and finding vessels becalmed, or in a defenceless situation, assail and destroy them. When discovered, they readily and safely retreat into the country, where our forces cannot follow, and, by the plunder, which they have obtained, and which they sell at prices low and tempting to the population, and by the apprehensions which they are able to create in those who would otherwise give information, they remain secure, and mingle, at pleasure, in the business of the towns, and transactions of society, and acquire all the information necessary to accomplish their purposes. Against such a system, no naval force, within the controul of this Department, can afford complete security, unless aided by the cordial, unwavering, and energetic co-operation of the local governments; a co-operation which would render their lurking places on land unsafe, and make punishment the certain consequence of detection. Unless this co-operation be obtained, additional means ought to be entrusted to the Executive, to be used in such manner as experience may dictate.

Vide printed documents accompanying the last message, p. 110.

C.

The letters and reports of Commodore Porter, referred to in the last report of the Secretary of the Navy, as marked C.: that is to say, such of the same as were made from the officers of the squadron, to Commodore Porter, whilst he was at Washington, in the summer of 1824, and by him officially transmitted to the Secretary of the Navy;—also his own official reports to the Navy Department, during the same period, to wit:

Extract of a letter from Lieutenant Commandant James M. McIntosh to Commodore David Porter, communicated to the Secretary of the Navy, dated

ALLENTON, *Thompson's Island, July 12th*, 1824.

Copy of a letter from acting Lieutenant Alexander B. Pinkham, to Commodore David Porter, communicated to the Secretary of the Navy, dated

U. S. SCHR. BEAGLE, *Quarantine Ground, N. Y. August 4*, 1824.

of a communication from Lieutenant Commandant N. L.
mery, to Commodore David Porter, communicated to the
ary of the Navy, headed U. S. SCHOONER BEAGLE, &c. &c.

Extract of a letter from Lieutenant Commandant McIntosh, to
modore David Porter, communicated to the Secretary of the
y, dated ALLENTON, *Thompson's Island, 8th August*, 1824.

Copy of a letter from Commodore David Porter, to the Secretary
the Navy, dated WASHINGTON, *August 9th*, 1824.

Copy of a letter from Commodore David Porter, to the Secretary
of the Navy, dated WASHINGTON, *August 10th*, 1824.

Extract of a letter from Lieutenant Commandant Jas. M. McIn[illegible]
tosh, to Commodore David Porter, communicated to the Secretar[illegible]
of the Navy, dated ALLENTON, *Thompson's Island, 25th August*, 1824.

For the contents of all which reference is here made to the sa[illegible]d
documents, as printed by the authority of Congress, p. 123, 128.
Message from the President of the United States, December
28th, 1824, transmitting, (in compliance with a resolution of the
House of Representatives, of the 27th instant,) information rela-
ting to the visit of the Naval Officer of the United States, command-
ing in the West Indies, to the town of Faxardo, Porto Rico, in
November last.

Vide Message, printed by authority of the House of Representatives, 9th
December, 1824.

Copy of a letter from the Secretary of the Navy, to Com. David Porter, dated

NAVY DEPARTMENT, *April 9th*, 1825.

SIR: The enclosed copies, from the Spanish Minister, Joaquin
de Anduaga, exhibit very strong complaints against Captain Ste-
phen Cassin, Commander of the U. S. ship Peacock, which wil
render his return to the United States necessary, unless he can me
the accusations by denial, or evidence, so as to enable the Secre
ry of State to reply promptly to the Spanish Minister upon the
veral grounds of complaint.

You will, therefore, communicate the enclosed to Captain C
and either order him home or return to me, as early as m
practicable, the evidence necessary to repel the charges.

I am, very respectfully, sir, your most obedient servant,

(Signed) SMITH THOMP

Com. DAVID PORTER,
Commanding U. S. Naval force, West Indies and Gulf of

NOTE. The copies referred to in the foregoing letter, consist, 1st, of a letter from Mr. Anduagua, dated New York, March 7, 1823, making the most vehement complaints against Captain Cassin, of the Peacock, for the capture of the Spanish schooner Carmen, alias Galliga the third: and charging Captain Cassin with the most outrageous and unjustifiable violence and misconduct towards the Spanish schooner and her crew. 2*dly*, of the declaration, under oath, of the Spanish Captain and Mate, and the protest of the Captain and crew; setting forth the acts complained of by Mr. Anduagua.

For the particulars, reference is here made to the original of the said letter from the Secretary of the Navy to Commodore Porter, and the documents therein referred to: all of which are hereto annexed.

(Copy.) [TRANSLATION.]

Declaration of the Captain and Mate of the Carmen.

At New Orleans, the 30th of January, 1823, presented themselves in this consulate of Spain, Don Jacinto Correa, and Don Ramon de Echevavria, the former Captain, and the latter mate of the Spanish schooner called Carmen, alias Gallega third, which on her voyage from the port of Sisal to that of Havana, was captured on the coast of that Island, off the port of Cabanos, by the United States' Corvette of war Peacock, and the schooner Louisiana, also of war, of the United States', and the vessel brought to this port; and the declarants, with the rest of the crew of the same vessel, were carried to Pensacola, where they were presented as pirates, and treated in the manner which they have expressed in the protest which they have exhibited, and of which a copy is annexed, and having made oath to God and the Cross, in faith of which they promised to speak the truth, they declared that besides the facts of which they have made mention in their said protest, they witnessed the capture of other Spanish vessels, whilst they were prisoners on board the said Corvette, in the following manner. On the night of the 29th, 30th, September last, they saw the boats of the said Corvette go off armed, the launch with a 9 to 12 pounder carronade, and all armed with pistols and cutlasses, and with marines and sailors, and by morning they returned on board without the declarants having seen any prize; on the following night the armed boats again went away, during which time they heard no noise, but after day light they heard great guns on shore, or in the river Puereos, and afterwards they saw brought from said river, in the course of that day, five barges, which they brought with a red flag hoisted under the American, and they saw taken from on board some of those vessels (they were two schooners) about a hundred bags of coffee, which they brought on board the Corvette, and another schooner marked with the No. 66 in the sail, and side of the bow; she was brought along side, and they took from her wood and ropes, of which was all her cargo, and after they despoiled her of her sails and running rigging, with some useful rope and an old fowling piece, they afterwards took the mainmast and carried it on board the Corvette; the other schooner appeared entirely loaded with part of the cargo over the covered

hatches with ropes, in the form which the coasting vessels of that Island commonly call, hogsheads of sugar, the other two vessels appeared also loaded and marked or numbered, but they did not approach sufficiently for the declarants to be able to distinguish the numbers, or to form a judgment of the nature of the cargo which they carried; besides the above mentioned five vessels, they seemed to set another, which was stranded, on fire, as they heard on their departure from the said river of Puereos. They also saw them take on board the Corvette, house furniture, birds of various kinds, such as turkies, geese, pigeons, parrots, &c. and they heard two sailors, who spoke Spanish, say that they had gone on shore, and the people had abandoned their houses and every thing; the three vessels which the declarants had an opportunity of seeing near, had not any armament, at least they were certain they had no artillery; and they add that they made no mention of these captures in their said protest, as being taken and unjustly prosecuted as pirates; they judged that they should confine themselves solely to their case and to nothing else. Thus they have declared under the solemnity of the oath which they have made, protesting it to be the truth, and that it does not proceed from malice, and they sign it in my presence, on the said day, month, and year.

JACINTO CORREA.
RAMEN DE ECHEVAVRIA.

Before me, ANTONIO ARGOTE VILLALOBOZ.

A true copy.

[TRANSLATION.]

Protest of the Captain, Officers and Crew, of the Carmen.

In the city of Pensacola, on the 27th of the month of November, 1822, before me, Don José E. Caro, Notary Public of the Territory of Florida, and County of Escambia, appeared in my office Don Jacinto Correa, Captain of the schooner called the Carmen, alias Gallega the third, about half past eleven of the said day, and requested that he might note his protest, to verify its formality in due form, in its proper time, and in evidence thereof, he signed it with me, the said Notary, which I attest.

JACINTO CORREA—before me, JOSE E. CARRO.

Recorded in book A, folio 2, date as above, one dash.

PROTEST.

In the city of Pensacola, on the 29th of the month of November, of the year 1822, before me Don José Estevan Caro, Notary Public of this city, and Territory of Florida, and County of Escambia, duly authorized and received, appeared Don Jacinto Correa, Captain and master of the Spanish Schooner, named the Carmen, alias Gallega the third, whom I certify and know, by his having presented himself to me in the morning of the 27th of the current month

and year, about half past eleven of the said day, and requested to note the protest, which he now makes in due form, and in virtue thereof says:—That he sailed from the port of Havana on the 4th of August, of the current year, under the protection of His Catholic Majesty's schooner brig packet the Mexico, and verified his entry in the port of San Juan de Ulloa, on the 15th of the same month of August, with a cargo of candles and cloths, and sailed from that port for that of Campeachy on the 23d of the same, his arrival in which he verified on the first day of September, of the current year, and sailed for that of Sisal on the 10th of said month of September, where he arrived on the 12th, taking, in the said port, the cargo destined for said vessel by means of Messrs. Quijano, Guzman & Sons—said cargo consisting of the produce of that province —such as sole-leather, hung-beef, dried venison, bags of quenique, cotton wick, barrels of tallow, casks of the same, hides, tierces of garlic, tierces of dry fish, and hats: and he verified his sailing on the 19th of said month, pursuing his voyage, without any thing new, until the 27th, when, about half past eleven, he saw land, and, at twelve, found that it was the Pan de Guaigabon; and during the whole day nothing new occurred. At sun-set, he sat the said pan at S. E. by compass, without any fresh occurrence, and went on with steady winds—at day-break he was in view of the cottages, and set them within a short distance at S. S. E. At said hour he saw a sail upon the bow, and in a short time it came upon his stern—wherefore he suspected it to be an enemy, trying to do what it eventually effected, by spreading all possible sail, and in a short time fired a gun shotted, and at the same time displayed the Spanish war flag, discovering that the chase was a corvette, which had fired, and was pursuing in chase, continuing the firing. At this time he saw another sail ahead, and a little afterwards it fired a gun, and displayed the American flag; and he discovered, at the same time, that it was a schooner, and with a light wind from S. S. E. approached him with sails and oars, and fired at him another gun, by which means, being between two fires, he found himself under the absolute necessity of lying to.

In a few minutes a boat from the corvette came on board of him, with a suitable crew, armed with cutlasses; and some three or four officers, to whom demanding the vessel's papers, he immediately exhibited them—namely, the Royal Patent, the Roll d' equipage, the ship's Journal, the entry of the cargo, which he had on board, sealed, as usual, and which they then took away, and kept in their possession, along with the other papers which he had exhibited, and at the same instant they ordered the hatches to be opened, which was very particularly opposed, and upon this, the second commander of the said corvette Peacock, (which he soon understood was her name,) threatened him by telling him that he would divide his head from his body if he opposed what he had ordered, and what else they should determine; in this case he proposed to protest at the same time, but he was not permitted, nor was his en-

treaty attended to, not even to inform him of the name of the corvette, or of her commander.

They then caused him to embark in the boat with the steward and the cook, leaving the hatches open, as decided owners of the vessel and cargo, altho' the pilot and the rest of the crew remained on board—proceeding to the examinations which they judged necessary, in the manner which best suited them.

He considered by the return of the boat, which had brought him to the schooner already mentioned, that it was no longer under his authority: they carried to the corvette the Pilot and the rest of the crew, and part of the provisions, having previously caused the pilot to deliver to one of the officers who had come from the corvette Peacock the public correspondence of the province of Yucatan, from whence he proceeded, the nautical instruments, and other letters and papers of the greatest value—not here making mention of the clothes and money, which from forgetfulness, and the precipitation of embarking, and being conducted on board the corvette Peacock, he left forgotten on board the said vessel, making in the whole about 373 dollars, of which sum no account has been made by the officer of the troop of that vessel, except of 39 dollars, and which he will declare at a more fit opportunity, under due oath.

Being a prisoner, with all the rest of his crew in the corvette Peacock, he begged the commander of the said corvette, in the name of the whole crew, to carry them to Havana, which was not permitted, nor his solicitude attended to—he himself, as well as the crew, experiencing from that time rigours not seen in the law of nations—having manacles put upon him, as also upon his crew, being treated and looked upon as guilty of the greatest crime in the world, during the five days that they remained in that vessel. After the five days mentioned, he was conducted with the crew to the schooner Louisiana, and the commander was impressed in his mind with the idea that three individuals of the crew were English, and that by compulsion they might be made to speak the English language, whilst they did not understand one word of such language, and under this suspicion, he threatened them with the yard arm, from whence he made signs that he would hang them if they did not comply with his proposition. On that day there was a new pillage with regard to him and the crew, when each one opened his trunk on board the corvette Peacock, yet they appropriated nothing to themselves; but from the schooner Louisiana the said trunks came into their power in Pensacola, in the camp where the United States' troops reside; and they were carried prisoners under the guard of said vessel Louisiana, on the 16th of October, of the current year; and his trunk, as well as those of the rest, were brought to said encampment where they were prisoners, and were delivered to them empty; observing that the cabin boy, named Jose Silvestre, of an Indian nation, taken on board in Sisal, remained on board the corvette Peacock; and 27 dollars which

delivered to the second in command, and 39 which the officer
e troops declared he had met with on board of his vessel; and
e schooner Louisiana 47 dollars, and seven reals, of which sums,
t, he had taken no notice; declaring in the same manner, that
the Corvette Peacock fired the three cannons, she raised the
ish flag of war, and they were taken under the same; and as
as he was a prisoner, she hoisted the war flag of the United
s, and while a prisoner in said encampment with the rest of the
of his vessel, whither they were conducted in the custody of
vessel, the Louisiana, and a beginning was made to their justifi-
n against the crime of piracy, charged against them. The said
ain and the Pilot, Dn. Ramon Echevria, and the passenger,
Juan Ferreria, were set at liberty on bail, on the 27th day of
current month and year, still leaving the rest of the crew cap-
in said encampment, adding that the Spanish inhabitants of this
, condoling with the said situation in which they were, had co-
d their nakedness, and for as much as at no time could there be
buted to him any blame in a similar occurrence, nor was he
geable with it in way or manner; he protests once, twice, and
e, and as often as the law permits him against said vessels Lou-
a and Peacock for all the damages, losses, and deteriorations
h, by the capture, may or might originate to the said Carmen,
Gallega the third; and for proof, presents as witnesses, the
Dn Ramon Echeveria; the boatswain, Manuel Agaio, and the
rs, Vicente Arias, Manuel Lopez, Jose Chanzino, and the pas-
er, Dn. Ferreria, whose oath I took in the same act; and having
to them the present protest, which the said Captain was re-
ed to verify, they declared unanimously and together, that as
is the said Captain had explained was true; the Captain, Boat-
in, Pilot and crew signing it: in faith of which, I, the said Nota-
sign and seal, with the seal of my office, in Pensacola, the pro-
day, month and year, which I attest.
acinto Correa, Raman de Echevarria, Manuel Agacio, Juan
tin Ferreria, Vincente Arias, Manuel Lopez, Jose Channe.
efore me, JOSE E. CARO, *Notary Public.*
[L. S.]

y George Walton, Governor of the Territory of Florida, and
nty of Escambia.
do hereby certify, that Joseph E. Caro, Esquire, whose name
ubscribed to the within Instrument of Protest, was, at the time
igning the same, and is now the regularly appointed Notary Pub-
for the said Territory and county aforesaid, and that full faith
credit are to be given to all his acts and doings in that capacity.
liven under my hand, and private seal, (there being no seal of
e) at Pensacola, in the Territory aforesaid this 29th day of No-
ber, 1822, and of the Independence of the United States the
y-sixth.

(Signed) GEORGE WALTON,
Secretary and Acting Governor of the Territory of Florida.

Recorded in book A, folio 2, 3, 4, and 5, of the book intended for that purpose.

Pensacola, date as above, Jose E. Caro, Notary Public.

A true copy of the protest which they have presented to me, and I return to the interested.

NEW ORLEANS, *3rd of February*, 1823.

(Signed) ANTONIO ARGOTE VILLALOBOS.

A true copy.

(Copy.) [TRANSLATION.]

Don Joaquin de Anduaga to the Secretary of State.

NEW-YORK, *7th March*, 1823.

SIR: I have the honour to send you enclosed, copies of the protest made in Pensacola, by Don Jacinto Correa, Captain of the Spanish schooner, called the Carmen, Alias Galliga the third, and of a judical declaration made by the same, before the Consul of Spain in New Orleans.

In both documents are set forth the capture of the said schooner, by the United States ship of war Peacock, and the oppression and robbery committed by her crew, all which has been confirmed to me, by the Captain General of the Havana, and by the Consul of Spain in New Orleans. As the circumstances of these crimes are expressed in the enclosed documents, I avoid repeating them in this note, and shall rest content with calling your attention to three of the principal, which are, the Peacock having made the capture with the Spanish flag, the violation of the public correspondence between two provinces of His Catholic Majesty, and the malicious contrivance of Captain Cassin, in sending the crew of the Carmen to Pensacola, and the vessel to New Orleans, that there might be no one to defend her there. Such violations of all public law, and such refined perfidy, are so evident and odious, that I think it unnecessary to insist upon them, since it would be doing an injury to the sense and justice of this government. Notwithstanding the insidious precaution of Captain Cassin, scarcely had the courts of Pensacola and New Orleans examined the case, when the former declared the crew innocent and set them at liberty, and the other ordered the restitution of the vessel, which saves me the trouble of proving the illegality of the capture: and it only remains with me to request, that the President would be pleased to order satisfaction to the owners of the schooner Carmen, for the losses and damages which they have sustained, and that the money and effects of which they have been plundered, be restored to the crew. This is what it concerns me to ask in favour of said individuals: but the just satisfaction of my government, the assurance in future of due respect to the Spanish flag, and the lives and property of Spanish citizens, impose upon me the obligation of speaking to you with that frankness which ought to subsist between two friendly powers, and whose interest it is to maintain the greatest harmony.

The injuries done by this country to His Catholic Majesty, and to

his subjects, are not confined to expeditions of individuals for the conquest of his provinces, to hostilities under the insurgent flag, to building armed ships for the enemies of Spain, to furnish these men with munitions of war, &c. but they have gone to attack publicly the vessels of Spain, by ships of war of the United States, and to trample upon Spanish citizens by American officers; the excess being carried to such a pitch, that His Catholic Majesty's territory is violated, and if a speedy check be not put to it, the Spanish commerce must be in dread of the ships of war of a nation which is said to be friendly, as it would be of another with which it was in a complete state of rupture.

The violations of neutrality and of friendship between two nations, committed by individuals, always give room to the offended power to believe that they have taken place without the knowledge, and against the will, of the government of the aggressors, and that it will grant a competent satisfaction; but when this is not only refused, and not even private citizens, but the ships and officers of that government give the insult, and commit hostilities with its approbation, since it neither punishes them nor prevents them from continuingtheir aggressions, the illusion must cease; and, alarmed for the intentions of said government, the imperious obligation which it is under of protecting its subjects, lays it under the necessity of demanding a frank explanation of them, and indispensable provisions for the putting a stop to the scandal of acts, which continued, could only be followed by consequences which His Catholic Majesty has a lively desire of avoiding; it being his most sincere wish to preserve inviolate the friendship which he professes towards this Republic.

Vain have been my repeated remonstrances to obtain satisfaction for the insults offered to my government and fellow citizens by the American officers; and if in the courts of the United States, the Spaniards have found justice, the government has not only refused my petitions, but has not even given an answer to the greater part of my notes. The very sentences of the courts, prove the justice of my complaints against the said officers; and when it is seen that this government, in spite of these complaints, and the opinion of the most eminent and just judges of this Republic, refuses to his Catholic Majesty the satisfaction which is his due, does not answer the representations of his Minister, and continues its protection and favour to the officers accused, the suspicion is allowed, that its friendly sentiments towards Spain, have undergone an alteration. This doubt will be extremely painful to His Catholic Majesty; wherefore I spend more time in requesting you to be pleased to clear it up; and this can be done in no other way than by giving to His Majesty the satisfaction which he has demanded for so great injuries, with the punishment of the officers who have committed them, and especially of Captain Cassin, and giving the most peremptory orders that they be not repeated.

The multiplied proofs of friendship which His Majesty has given

to this Republic, the sacrifices which he has made in its favour, and the utility which results to both nations in the continuance of a good understanding between both, are to me, a sure guarantee that the President, deigning to take into consideration the important contents of this note, will be pleased to order such an answer to it, as will at once dissipate the disagreeable impressions which the acts of the American officers have made, and assure His Catholic Majesty, that his desires for the continuance of the strictest friendship with this Republic will be fulfilled.

I repeat my devotion to you, Sir, and pray you to accept the assurance of my high consideration.

(Signed,) JOAQUIN DE ANDUAGA.

DEPARTMENT OF STATE, 1 *August*, 1825.

I have compared the above copy with my original translation, and found it correct. I also know of no answer having been given to it.

GEORGE C. IRONSIDE,
Clerk and translator of foreign languages.

NAVY DEPARTMENT, *April* 9*th*, 1823.

SIR: The enclosed copies, from the Spanish Minister, Joaquin de Anduaga exhibit very strong complaints against Capt. Stephen Cassin, Commander of the U. S. Ship Peacock, which will render his return to the United States necessary, unless he can meet the accusations by denial, or evidence, so as to enable the Secretary of State to reply, promptly, to the Spanish Minister upon the several grounds of complaint.

You will, therefore, communicate the enclosed to Capt. Cassin, and either order him home, or return to me, as early as may be practicable, the evidence necessary to repel the charges.

I am, very respectfully, sir, your most obedient servant,

SMITH THOMPSON.

Commre. DAVID PORTER,
Comd'g U. S. Naval force West Indies and Gulf of Mexico.

(A.)

AMES BARRON, Esq. *Captain in the Navy of the United States:*

ertain charges of misconduct having been alleged against David :er, Esq. a Captain in the Navy of the United States, and rs, a General Court Martial, to consist of

Capt. JAMES BARRON, *President.*

's. THOMAS TINGEY,	JESSE D. ELLIOTT,
JAMES BIDDLE,	JAMES RENSHAW,
CHARLES G. RIDGELY,	THOMAS BROWN,
ROBERT T. SPENCE,	CHA'S C. B. THOMPSON,
JOHN DOWNES,	ALEX'R S. WADSWORTH, and
JOHN D. HENLEY,	GEORGE W. RODGERS, *Members.*

ny five, or more of them, is hereby authorized and ordered ssemble at the United States' Navy Yard, in Washington, on ırsday the seventh day of July next, for the trial of the said tain David Porter, and others, for the offences with which they everally stand charged; which charges, together with the tes- ıny in their support, will be laid before the Court, by the Judge ocate.

ichard S. Coxe, Esq. is hereby appointed Judge Advocate, to Court, hereby ordered to assemble; and if he should decline ıg, the said Court will appoint such other suitable gentleman, ned in the Law, to discharge the duties of Judge Advocate to said Court, as they, or a majority of them, may, in their wis- , deem fit and proper.

ı faith of which, I have hereunto signed my name, and affixed the Seal of the Navy Department of the United States,
S.] this twenty-third day of June, in the year of our Lord one thousand eight hundred and twenty-five, and of the independence of the United States the forty-ninth.

SAM'L L. SOUTHARD.

(B.)

[R. PRESIDENT: Thus called upon to declare my exceptions, if I have, to any of those members of the General Court Mar- here assembled, who are to exercise a *judicative* function in case, and to have a voice in pronouncing my guilt or innocence do, without hesitation, renounce every such exception. Even were so, that any member of this Court should, unknown to be affected by any prejudice or bias, unfavourable to an impar- judgment on my case, I rely too implicitly on the known char- ır of my brethren in arms, to think of scrutinizing the motives ıny: their own breasts are sufficiently informed by justice and our, of the proper course to be pursued in such case.

ut, sir, I do find myself very reluctantly impelled, not more by

a sense of the justice due to myself, than by a regard for the honour of the service, and for the wholesome safeguards of military jurisprudence, to interpose at this precise stage of the business, some fundamental objections to so much of the essential material of the Court, as consists in the functions of the Judge Advocate.—The grounds of my exceptions to the gentleman named as Judge Advocate in the order for convening this Court, detract nothing from the great learning and abilities for which he is so well known, nor from the general integrity and fairness of his character. That a juror summoned on a criminal trial, before a Court of ordinary judicature, or a member of a Court Martial, may be challenged either peremptorily or for cause, without the least disparagement of his personal or professional character, is too well established to require a contrary inference to be disclaimed, on any occasion.

My exceptions go first to his legal competency and authority to assume and exercise the functions assigned him by the Secretary of the Navy; and, secondly, if he should be found duly appointed, to the temper and bias of his mind, in relation to this particular case.

1. Then, I ask, does he claim to be Judge Advocate, *ex officio*, or merely to officiate as such, under a temporary delegation of authority, for this particular occasion? If the first, let his commission be produced, and the question on this point is at once settled. A Judge Advocate is an officer of such importance in every military establishment, whether of the land or naval service, the due administration of his office so vitally affects the most inestimable rights of the officers and men attached to the service, as makes it altogether inconceivable how his appointment should emanate from any less authority, or be manifested by any less solemn act, than that of any other officer, civil or military, under the Government. This brings us directly to the authority of the President of the United States, executed in the solemn form of a regular commission. Under the constitution and laws of the United States, it cannot be pretended that the Secretary of the Navy, or any authority less than that of the supreme executive, can make such an appointment. If, however, it be no Judge Advocate, *ex officio*, who presents himself, but merely one with a temporary delegation of authority to act as such on this special occasion, then I ask who is competent to such delegation of authority, and from whom does it actually proceed in this instance?

No express provision appears to have been made in the naval, as there has been in the military, establishment for the appointment, either of regular Judge Advocate, or of persons specially deputed to act as such. Yet the existence of the office, and the practical exercise of its functions, in both descriptions of persons, are recognized in the rules and regulations for the government of the Navy, which speak of "the Judge Advocate" as distinguished from the "person officiating as such;" thus implicitly admitting an authority somewhere, to appoint to the office, or to delegate its functions in either mode.

t, therefore, question the propriety of assigning the func-
'udge Advocate, as well in naval as in military Courts Mar-
ıy person, either regularly appointed to the office, or spe-
puted to officiate as such in a particular trial. Then the on-
ion is, how, and by whom may a person be so deputed to act
:ace of an official Judge Advocate, to a *naval* Court Mar-
'he laws of the United States being silent on the question,
s that, wherever the power may reside, it is in its nature
ncidental; and, as such, can be claimed only by that offi-
hat tribunal, to whose fundamental constitution and inherent
it bears the nearest affinity, and the strongest analogy. Up-
: principles I maintain, that it is altogether foreign to the
constitution and powers of the Navy Department, and bears
ty or analogy to the ordinary functions assigned to the head
Department; but, on the contrary, that it is perfectly con-
and in strict analogy with the peculiar constitution and pow-
he Court Martial itself; and devolves, among other incidental
ilting powers upon that tribunal, as the appropriate depository
y authority necessary to the orderly progress, and the due
.cation of its proceedings.

is the invariable practice of Naval Courts Martial in Eng-
nd it is sustained by the most authoritative precedents in
ı service. I refer to one precedent, now in my mind—
, the Court of Inquiry on Capt. Hull, and, I doubt not, many
:xtant. The appointment of its own *clerk*, (an office dis-
appertaining to the functions of Judge Advocate,) may in-
e assumed, as an universal incident to the constitution of
leliberative body and judicial tribunal, unless vested by ex-
nactment in some other Department. If, then, the deputa-
a person to officiate as Judge Advocate in this case, proceed
:e sole authority of the Secretary of the Navy, (as I under-
the fact) I except to its competency, and maintain that it
be supplied by an appointment from this Court.

ut, if the learned gentleman, named by the Secretary of the
should be found, on examination, to be duly authorized, in
y, to officiate as Judge Advocate, I except to him, as being
d by a manifest bias of prejudice and interest, to labour for
ıviction; and to exert the uttermost of his ingenuity, skill
ırning, to fix upon me all, or the greater part of the charges
:ed against me. Before I state more particularly the facts,
vhich this exception proceeds, I beg leave to advert, very
ily, to the qualifications and functions of a Judge Advocate,
ned by the concurring authority of all the most approved
s on military jurisprudence. (*a*) According to these authori-
e is the *primum mobile*, as it has been termed, of the Court
ıim, the Court depends for an impartial and candid exposition

. McArthur, (4th Ed. Lon.) 279, 291, 441, App. No. 26 Judge Bathurst's
ı. Adye (7th Ed. Lon.) 113, 115, 118. Macomb, 166, 167, 169,

[illegible] law, and [illegible] pect to lean upon his advice, with entire confidence. Not only is the absence of every sort and degree of prejudice or bias against the prisoner, indispensably required of him; but *absolute impartiality* is the least *favourable* state of mind requisite to fulfil the humane behests of the law, by which his relative duties towards the prisoner are defined; for it is expected that he rather incline to the side of the prisoner, and, upon all doubtful questions, decide in his favour; that, as the recorder of the evidence and of the Court's proceeding, he be studious to collect and record every circumstance that may weigh in favour of the prisoner—nay, in many instances, that he act as his counsel. This last office, I happen to be so fortunately situated, as to be able to dispense with. But cases may possibly arise, when it might be indispensable to the cause of justice and humanity; and I am now contending upon this, as upon every other question involved in my approaching trial, for principles which apart from their practical operation upon my particular interests, are important to the dearest interests of the service; for principles in the subversion or contempt of which, no officer or man in the service can *hold any* security, for life or honour, inviolate.

Then the Judge Advocate, as acting this essential and prominent part in the constitution and in the deliberations of a Court Martial, is unquestionably as fair a subject of challenge, whether peremptory, or for cause, as any other member of the Court. The reason and necessity of the thing are the same; the law cannot be different.

As to the cause of challenge: I might well maintain upon the most respectable authority, that I am not bound to assign any; but that I am entitled to a peremptory challenge. (*b*) I shall proceed, however, to assign my reasons openly and candidly; with this preliminary illustration of the principles by which the sufficiency of "challenges to the favour" is usually determined—namely, that circumstances which raise a *suspicion*, very far short of any direct proof of *bias or partiality*, are deemed sufficient cause, either against a juror, in a criminal trial, or against a member of a Court Martial; a strict analogy between the two, being preserved in military jurisprudence. (*c*)

When the functions and relative duties of a Judge Advocate are considered, 'tis not to be imagined that any lower standard can be applied to the qualification of dispassionate, disinterested, and impartial judgment in him; if indeed, the absolute freedom of his mind from every interfering bias and passion, be not subject to a still severer test.

The facts upon which my present exceptions are grounded, furnish superabundant matter for the application of these wholesome and necessary rules. I have direct and certain information, that

(*b*) Adye 120—3.
(*c*) Id. 175.

leman, now claiming to officiate as Judge Advocate, has
and published at least one anonymous piece, distinctly as-
he truth of one of the specifications, now exhibited against
ıd so has pledged his credit in a way utterly incompatible
ıuisite impartiality, to fix a charge upon me, which, from its
may result in a question of veracity between himself and
am further informed, though not upon such direct and cer-
ıority as in the other instance, but from sources pregnant of
ity and truth, that he has employed himself in writing, and
e or nearly ready prepared for the press, a pamphlet pro-
o be a full answer to my published defence against the prin-
arge now to be tried; and labouring to establish, by facts
ıonings, the conclusion of my guilt.
ese facts, I doubt not of being able to produce the most
ory evidence; if the voluntary and candid avowal of the
ıan himself should not dispense with it.
I would ask, what is left for him, on this occasion, but to
his public pledge, and to vindicate his own preconceived,
l and fixed opinion of my guilt? And how is this to be re-
l with any of the legitimate functions of a Judge Advocate?
sday, July 7, 1825.

(C.)

and specifications exhibited against David Porter, Esquire, a Captain in the Navy of the United States.

CHARGE FIRST.

ıedience of orders, and conduct unbeboming an officer.
fication. For that he, the said David Porter, being in com-
f the Naval forces of the United States, in the West India
ulf of Mexico, &c. did, on or about the fourteenth day of
ber, in the year of our Lord one thousand eight hundred and
four, with a part of said Naval forces, land on the Island of
ico, in the dominions of his Catholic Majesty, the King of
ıen, and still in amity and at peace with the United States,
cible and hostile manner, and in military array, and did,
d there, commit divers acts of hostility against the subjects,
ıperty of the said King of Spain, in contravention of the con-
ı of the United States, and of the Laws of Nations, and in vio-
ıf the instructions from the Government of the United States
the said David Porter.

CHARGE SECOND.

bordinate conduct, and conduct unbecoming an officer.
ification 1*st*. For that he, the said David Porter, did write
nsmit to the President of the United States, a letter of an in-
inate and disrespectful character; to wit, on the seventeenth
April, in the year of our Lord one thousand eight hundred
enty five, and did, also, write, and transmit to the Secretary
Navy, at sundry times hereinafter particularly mentioned,

various letters of an insubordinate and disrespectful character, viz. on the thirtieth day of January, the sixteenth day of March, the thirteenth day of April, and the fourteenth day of June, all in the year of our Lord one thousand eight hundred and twenty five, thereby violating the respect due from every officer in the Navy to the Head of the Department, impairing the discipline of the service, and setting a most dangerous and pernicious example.

Specification 2nd. For that he, the said David Porter, after a Court of Inquiry had been convened, and directed to investigate, and make report of the facts, in relation to the matters embraced in the specification of the first charge, and after such Court had terminated its enquiries, and had transmitted its report to the Secretary of the Navy, and before the Executive had published, or authorized the publication of the proceedings of said Court, did publish, or cause to be published, a pamphlet, purporting to contain the proceedings of the said Court of Inquiry.

Specification 3rd. For that he, the said David Porter, in the publication made, as mentioned in the last preceding specification, did give an incorrect statement of the proceedings of the said Court of Inquiry.

Specification 4th. For that he, the said David Porter, did, in the publication referred to in the said two last preceding specifications, insert various remarks, statements, and insinuations, not warranted by the facts, highly disrespectful to the Secretary of the Navy, and to the said Court of Inquiry.

Specification 5th. For that he, the said David Porter, did, in the same publication, referred to in the said last preceding specifications, without any authority, or permission for that purpose, make public, official communications to the Government, and official correspondence with the Government; and has, on other occasions, between the first of October, in the year of our Lord one thousand eight hundred and twenty-four, and the fifteenth day of June, in the year of our Lord one thousand eight hundred and twenty-five, without authority, or permission therefor, made public, orders and instructions from the Government, and official correspondence with the Government.

(D.)

NAVY DEPARTMENT, *July 8th*, 1825.

SIR: Your letter of the 7th instant, stating that it is the desire of the Court, now convened at the United States' Navy Yard, Washington, to remove to the Marine Barracks, has been received. I accede, with pleasure, to the wish expressed by the Court; and you are hereby authorized to have the future Sessions of the Court held at the Marine Barracks.

I am, very respectfully, sir, your most obedient servant,

SAM'L L SOUTHARD.

Capt. JAMES BARRON, *President General Court Martial, Present.*

(E.)

[Original charges inclosed in the Secretary of the Navy's letter, dated 22nd June, 1825.]

Charges and specifications exhibited against David Porter, Esq. a Captain in the Navy of the United States.

CHARGE FIRST.

Disobedience of orders, and conduct unbecoming an officer

Specification. For that he, the said David Porter, being in command of the Naval forces of the United States in the West India seas, Gulf of Mexico, &c. did, on or about the fourteenth day of November, in the year of our Lord one thousand eight hundred and twenty-four, with a part of said Naval forces, land on the Island of Porto Rico, in the dominions of his Catholic Majesty, the King of Spain, then and still in amity, and at peace with the United States, in a forcible and hostile manner, and in military array; and did, then and there, commit divers acts of hostility against the subjects and property of the said King of Spain, in contravention of the Constitution of the United States, and of the laws of Nations, and in violation of the instructions from the government of the United States, to him, the said David Porter.

CHARGE SECOND.

Insubordinate conduct, and conduct unbecoming an officer.

Specification 1*st*. For that he, the said David Porter, did write and transmit to the President of the United States, a letter of an insubordinate and disrespectful character; to wit, on the seventeenth day of April, in the year of our Lord one thousand eight hundred and twenty-five; and did also write, and transmit to the Secretary of the Navy, at sundry times, hereinafter particularly mentioned, various letters of an insubordinate and disrespectful character, viz: on the thirtieth day of January, the sixteenth day of March, the *thirtieth day* of April, and the fourteenth day of June, all in the year of our Lord one thousand eight hundred and twenty-five, thereby violating the respect due from every officer in the Navy to the Head of the Department, impairing the discipline of the service, and setting a most dangerous and pernicious example.

Specification 2*nd*. For that he, the said David Porter, after a Court of Inquiry had been convened, and directed to investigate, and make report of the facts in relation to the matters embraced in the specification of the first charge, and after such Court had terminated its inquiries, and had transmitted its report to the Secretary of the Navy, and before the Executive had published, or authorized the publication of the proceedings of said Court, did publish, or cause to be published, a pamphlet purporting to contain the proceedings of the said Court of Inquiry.

Specification 3*rd*. For that he, the said David Porter in the publication made, as mentioned in the last preceding specification, did

give an incorrect statement of the proceedings of the said Court of Inquiry.

Specification 4th. For that he, the said David Porter, did, in the publication referred to in the two last preceding Specifications, insert various remarks, statements, and insinuations, not warranted by the facts, highly disrespectful to the Secretary of the Navy, and to the said Court of Inquiry.

Specification 5th. For that he, the said David Porter, did, in the same publication, referred to in the said last preceding specifications, without any authority, or permission, for that purpose, make public, official communications to the government, and official correspondence with the government; and has, on other occasions, between the 1st of October, 1824, and the 15th June, 1825, without authority, or permission therefor, made public, orders and instructions from the government, and official correspondence with the Government.

(F.)

NAVY DEPARTMENT, *22nd June, 1825.*

SIR: I enclose to you the charges and specifications, upon which you will be tried, before a Court Martial, which will be convened on the seventh day of July next, at the Navy Yard Washington, and of which Captain James Barron has been appointed the President.

At the time and place mentioned, you will report yourself to the Court for trial upon said charges. In the mean time you will be under no restraint in preparing for your defence.

On the receipt of this letter, you will consider yourself under arrest. It is not deemed necessary to call upon you to surrender your sword, nor to assign limits to you.

I am, respectfully, &c.

SAML. L. SOUTHARD.

CAPTAIN DAVID PORTER, *United States Navy, Present.*

(G.)

MR. PRESIDENT: Before I can be called upon, either to plead or to except to any charges and specifications, 'tis necessary that it be definitively ascertained what are the charges and specifications which I am *expected* to answer; and, strange as it may appear at this stage of the prosecution, nothing is more uncertain.

On the 22d day of June last, I received, enclosed in a letter from the Secretary of the Navy, ordering my arrest, and notifying me of my trial, a paper purporting to contain the *original* charges and specifications exhibited against me. 'Tis true, the paper was signed by no one, and bore not upon its face any form of authentication whatever; nor did it name or refer to any prosecutor, informer, or Judge Advocate. Still the official source from which it proceeded, and the strictly official form and nature of the communication that accompanied it, and identified its character, left me no doubt, and I presume now admit no doubt, of the authenticity of the paper, as

an exhibition of the original charges and specifications against me: which, as such, were definitive and conclusive, and altogether unalterable, in form or substance; but upon the proviso, and under the circumstances provided in the 38th article of the rules and regulations for the government of the Navy of the United States.

When I was arraigned before this Court yesterday, a paper was produced and read by the Judge Advocate, purporting and professing to be nothing more than a *copy* of the original charges and specifications; meaning, as I presumed, of the same exhibited against me at the time, and in the manner before mentioned. But what was my surprise, on a comparison of the two papers, to find a very material variance in the 1st specification of the second charge. The "various letters of an insubordinate and disrespectful character," which I am therein charged with having written to the Secretary of the Navy, are no otherwise distinguished or identified, than by a naked reference to the *dates*;—neither their tenor nor their substance and effect is set out, and so I have no sort of notice what letters are designated as of that character, but this naked reference to *dates*. Then the *dates* are of the essence of the accusation. I have been cited here to answer, and have come prepared to answer for those designated letters and no others. Let the dates be changed, and the substance of the charge is changed; in so far as I am called upon to answer for *other* "letters of an insubordiate and disrespectful character." Now, sir, the *copy* of the original charges and specifications, produced by the Judge Advocate, on my arraignment yesterday, specifies and complains, in the first specification of the second charge, of such a letter as dated on the thirteenth day of April, in the year 1825; whereas, no such letter is any where specified or referred to in the aforesaid original exhibition of charges and specifications. This variance is manifest, upon a comparison of the copy produced by the Judge Advocate, with the original, which I now here produce, for the inspection of the Court, with the original letter that accompanied it.

Universal military usage, and the imperative provisions of the aforesaid 38th article of the rules and regulations for the government of the Navy, decide that I can be put to answer nothing beyond the tenor of the charges and specifications originally exhibited against me. But, in this particular instance, I waive the objection, requiring only that the prosecutor do now decide or declare his election, to abide the one or the other specification of the letters complained of, or to adopt both if he please. At any rate, let the form and extent of the charges and specifications be now definitively arranged, and conclusively settled.

This point being settled, I shall pray the leave of the Court to enter my plea of not guilty to all, and singular the charges and specifications, under a protest against their sufficiency: and reserving to myself the right, in the progress of the trial, and in due time, of excepting to the said charges and specifications, as designating no offence, known to any law enacted for the government of the Navy;

as vague and indefinite, and altogether insufficient to put me upon my trial, for the matters therein charged, or supposed to be charged. That these points may be submitted in a way to admit of the maturest deliberation. I have concluded, if it be the pleasure of the Court, to suffer the trial to proceed, for the present, under the general issue, and to submit my exceptions to the charges and specifications, or such of them as I shall conclude to be exceptionable, at a more convenient day.

FRIDAY, *July 8th*, 1825.

(H.)

GENERAL INSTRUCTIONS.

Having been appointed to the command of the Squadron, fitted out under an act of Congress, of the 20th of December last, to cruise in the West India seas and Gulf of Mexico, for the purpose of repressing piracy and affording effectual protection to the citizens and commerce of the United States; and to the command of all of the United States ships and vessels of war in the West Indies, *fitted out* for the aforesaid objects; and for the suppression of the slave trade, it becomes my duty (in order that a perfect understanding may be had by those under my command, of the extent of the authorities to be exercised by them in case of separation, or in case of being detached on special service,) to point out briefly to them the conduct to be pursued under particular circumstances, and in doing so shall confine myself to existing laws and the instructions of the Honorable Secretary of the Navy, and it is hoped, that in no case those orders will be exceeded, without my sanction first being obtained.

First, then, with regard to piracy. On this subject there have been three several acts: that of March 3rd, 1819; of May 15th, 1820, and that of the 20th of December last, authorizing the additional force of schooners, &c. &c.

The 2nd section of the act of March 3rd, 1819, authorizes "subdue, seize, take, and send into any port of the United States any armed vessel or boat, or any vessel or boat the crew whereof shall be armed, and which shall have *attempted or committed* any piratical aggression, search, restraint, depredation, or seizure upon any vessel of the United States, or of the citizens thereof, or upon any other vessels.

From the generality of this latter description of vessels, it would seem to embrace those of every nation or country upon which *any* piratical aggressions may have been committed. Admitting the act might be extended thus far, it does not appear to be the general object of the law: and it was thought by the President most advisable at one time, not to give it a like indiscriminate practical construction as to all vessels.

The great object as pointed out in the first section of the act, was to protect the merchant vessels of the United States from piratical aggressions. This will, therefore, be considered a particular and special duty;—if, however, there should be discovered depreda-

other vessels, committed under such gross and aggravated
tances as to leave little doubt of their piratical character,
ıe a duty then to capture and bring in the aggressors. It is
most advisable thus to distinguish in these instructions, be-
ımong other considerations it will be seen that, under the se-
ction of the act, authority is only given to *retake vessels of*
ted States or its citizens, which may have been unlawfully
d on the high seas; no positive authority is given by it to
the vessels of any foreign nation or country.
ll also be perceived, that under this 2nd section of the act,
ty is only given to "subdue, seize, and take" such vessels
s, &c. &c. as shall have attempted or committed some pirati-
ression. Whatever well grounded suspicions may be en-
d that a vessel may have been fitted out, and is intended to
loyed in such depredations, the act does not authorize her
ition, unless there is satisfactory evidence that she has either
ted, or actually committed, some piratical aggression, on some
nt vessel of the United States or her crew; or upon some
essel under the special circumstances above mentioned.
, by this act, must be considered an important and leading re-
ı, as it will be a strong and almost controlling circumstance.
ering we are at peace with all the world,) in making up a
nt whether it would be safe and justifiable to treat them as

never, therefore, boats or vessels shall be found, the crews
of have committed any actual violence, outrage, or depreda-
ıon any vessels of the United States or citizens thereof, or
ıer vessel as above mentioned, it is to be sufficient to au-
: their being "subdued, seized, and taken," and unless it
satisfactorily appear that they were acting under some law-
ıority, and not piratically, they are to be sent in for adjudica-

act of May 15th, 1820, continues in force the act of March
819; and makes further provision for punishing the crime of

The 3rd section of this act, declared as pirates "any per-
ho shall, upon the high seas, or in any open road-stead, or
haven, basin, or bay, or in any river where the sea ebbs and
commit the crime of robbery in, or upon any ship or vessel,
n any of the ships company of any ship or vessel, or the lad-
reof: such person shall be adjudged to be a pirate," and
nalty death, on conviction before the Circuit Court of the
States.

fourth and fifth section makes it piracy, for any citizen of
ited States to be engaged in the slave trade, and the penalty,
viction before the Circuit Court of the United States, death.
Act is more extended than the former, in its definition of the
piracy, but in no part, (except in continuing in force the
law) authorizes capture by the armed vessels of the United

The high and delicate power therefore vested in the Pre-

sident by the Act of March 3d, which authorizes and requests him to employ so many of the public armed vessels, as in his judgment, the service may require, with suitable instructions to the commanders thereof, in protecting the merchant vessels of the United States, and their crews, from piratical aggressions and depredations, has been resorted to and exercised, for the purpose of more clearly defining the duties to be performed.

The trust reposed in me, is one of a peculiarly delicate character, for while it is made my duty to protect our commerce against all unlawful interruptions, and to guard the rights both of person and property of the citizens of the United States, whenever it shall become necessary, it is enjoined on me not to encroach on the rights of others: and whatever discussion or collision I may have with any foreign power, in relation to such rights, I am bound to conduct it with as much moderation and forbearance as is consistent with the honour of my country, and the just claims of its citizens.

The system of piracy, from whatever cause it may have originated, is of considerable extent, and from the sparse population of the Spanish Islands, which cannot enforce the authority of the government, establishments have been made by parties of those banditti in the uninhabited parts, to which they carry their plunder, and retreat in time of danger. It cannot be presumed, that the government of any island will afford any protection or countenance to such robbers. It may, on the contrary, confidently be believed, that all governments, and particularly those most exposed, will afford all means in their power, for their suppression.

Pirates are considered by the laws of nations, the enemies of the human race. It is the duty of all nations to put them down, and none who respect their own character, or interest, will refuse to do it, much less afford them an asylum and protection.

The nation that makes the greatest exertions to suppress such banditti, has the greatest merit. In making such exertions, it has a right to the aid of every other power to the extent of its means, and to the enjoyment under its sanction, of all its rights, in the pursuit of the object

In the case of belligerents, when the army of one party enters the territory of a neutral power, the army of the other has a right to follow it there. In the case of pirates, the right of the armed force of one power to follow them into the territory of another, is more complete. In regard to pirates, there is no neutral party, they being the enemies of the human race, all nations are parties against them, and may be considered as allies. The object and intention of our government is to respect the feelings as well as the rights, of others, both in substance and in form, in all the measures which may be adopted, to accomplish the end in view. Should, therefore, the crews of any vessels seen engaged in any acts of piracy, or which there is just cause to suspect of being of that character, retreat into the ports, harbours, or unsettled parts of

s ; they may be pursued into such ports, harbours, and parts of the country, for the purpose of aiding the local s or people, as the case may be, to seize and bring the to justice ; previous notice being given that this is the ct. When a government exists and is felt, the local s must, in all instances, be respected, and every act must of, and in co-operation with them ; it being the exclusive f the government of the United States, to suppress pira- ject in which all nations are equally interested, and in the hment of which, the Spanish authorities and people will, med, cordially co-operate with us.

ie pursuit of pirates, found at sea, they shall retreat into tled parts of the islands or foreign territory, liberty is ursue them, so long only as there is reasonable prospect ble to apprehend them ; and in no case are we at liberty and apprehend any one, after having been forbidden so competent authority of the local government ; and if any te should be apprehended on land, they are to be deliver- the proper authorities, to be dealt with according to law, e evidence that can be furnished, is to be given in proof ence alleged against them. Should the local authorities receive and prosecute such persons so apprehended, on e evidence being furnished them of their guilt, they are e kept safely and securely, until information on the subject nmunicated to me.

complaints have been made to the government, of the in- and injury to our commerce, by privateers fitted out nish ports. Great discretion is required in giving to our he necessary protection against their aggressors, without on the rights of the belligerent. We know not how far e been authorized and instructed to intercept our trade tico and the Colombian Republic ; but according to the ed rule of the laws of nations, the United States will not any portion of the coast upon the Gulf of Mexico, as le- kaded, except where a naval force is stationed, sufficient nto effect the blockading order or decree. And our Gov- does not recognize the right or authority of Spain, to in- interrupt our commerce, with any portion of the coast, within the Colombian Republic and Mexican Government, ly blockaded by a competent force.

it is but reasonable to infer, that to arrest our vessels em- lawful trade, from the fangs of the numerous privateers ve lately been fitted out from Porto Rico, and to " subdue, e, and send into any port" those depredators on our com- would be right and proper ; but in doing this, great discre- prudence must be exercised, and the fact must be clearly ed, that they come within the provisions of the second f the Act of March 3rd, 1819.

cent decisions of our Courts, and officers competent to

judge; and by the wording of the 5th section of the Act of March 3rd, 1819, it would appear that piracy may be committed by vessels legally authorized to cruize, and engaged in mercantile pursuits; and that the persons alone committing the act, are responsible for the same; I allude particularly to the Panchitta, sent in by the Grampus, some of the crew of which, were imprisoned, to be tried for piracy, and the vessel liberated, by decision of the Judge: And to the Nympha Catalina, sent in by the Spark, for an act of piracy, on a former voyage. The vessel and cargo, immediately on her arrival in the United States, were restored to the owners; part of her crew liberated, and those who committed the act, only confined for trial. I might cite other cases to justify the opinion I entertain, as to the course proper to be pursued, to effect the object of our expedition with the least possible injury to those not implicated in the crime; but these will suffice.

In the first case cited, the decision of the Judge justified the conduct of the capturing officer, and in the other case, the law would seem equally to authorize her being "subdued, seized, taken," &c.

The language of the fifth section of the law, as above cited, is as follows: "And be its further enacted, that if any *person* whatsoever, shall, on the high seas, commit the crime of piracy, as defined by the laws of nations, such offenders shall afterwards be found, and be brought into the United States, any such offender or offenders, shall, on conviction thereof, before the Circuit Court of the United States, for the district into which he or they may be brought, or in which he or they shall be found, be punished with death.

But it does not appear to me to be necessary, in order to the attainment of justice, that the innocent should suffer for the guilty. If the ship is not answerable for the acts of the crew, there can be no necessity or propriety in sending in the ship for adjudication, because by so doing, injury is brought on the owners, the innocent party; and to us they look for indemnity, who have no other appeal than to the liberality of our country.

But piracy must be punished, and we are bound by the second section of the Act of March 3rd, 1819. to "subdue, seize, and take" all vessels, which commit it. And after we have done so, and it is found that the vessel committing the act, is a legally authorized cruiser, the most that it would seem proper to do on the occasion, would be to take from on board her the persons committing the act, and to send them to the United States, for trial.

For the same principle that would justify their capture on land, will apply with equal propriety to their seizure on board ships on the ocean, and perhaps if any competent authority should be near at hand, it would be equally proper to deliver them up to it with proofs of their guilt, on a pledge that they shall be brought to trial, but on a refusal to give such pledge, they must be reported to me with as little delay as possible.

The next subject to which attention is to be directed, is the suppression of the Slave Trade; and it is expected that the utmost vigilance shall be exercised, in order that this inhuman practice may be put down. By the Act of the 20th of April, 1818, it is made unlawful, to import or bring, in any manner whatsoever, into the United States, or the Territory thereof, from any foreign place, any person of colour, with intent to hold, sell, or dispose of such person as a slave, or to be held to service.

By this Act it is also made unlawful for any citizen of the United States, or other person, to build, equip, load, fit, or otherwise prepare, any ship or vessel, in any port or place within the jurisdiction of the United States, or to cause any ship or vessel to sail from any port or place whatsoever, within the jurisdiction of the United States, for the purpose of procuring and transporting any such slaves to any port or place whatever: and any ship or vessel employed in such importation of slaves, or so built or fitted out, or prepared, is liable to be seized and forfeited.

And by Act the 3d of March, 1819, the President is authorized to employ any of the armed vessels of the United States to cruise in such places as he may think proper, where he may judge attempts may be made to carry on the slave trade by citizens of the United States, or residents thereof, in contravention of the Acts of Congress prohibiting the same, and to instruct such armed vessels to seize, take, and bring, into any port of the United States, to be proceeded against according to law, all ships or vessels of the United States, wheresoever found, of which may be intended for the purpose of taking on board or of transporting, or may have transported any person of colour, in violation of any provisions of the Act of the 20th of April, 1818, above referred to, or in violation of any other act or acts prohibiting the traffic in slaves.

From the generality of the provisions of the slave acts, authority is given to take and bring into port all vessels of the United States which may have been in any manner employed, or intended to be employed, in the slave trade, or any other vessel which may be employed in the importation of slaves into the United States.

It will be observed that the first provision applies only to vessels of the United States, the second applied to vessels of every nation. The rest of the laws go to explain the manner of disposing of the slaves and persons taken in the trade; prescribe the punishment to be offenders, and the bounty to the captors.

It will be sufficient, therefore, that the capture should be made under the foregoing circumstances, and that reference should be had come for instructions as to the disposal of the vessels, slaves and offenders, and to the laws for a final decision.

There is one thing that must be particularly observed; it is not to be considered in these general instructions for the suppression of the slave trade, that authority is given at any place out of the waters of the United States, to search, capture, or in any manner whatever to interrupt vessels under any other than the American flag.

As regards the re-capture of vessels which may be found in the hands of the pirates, and not belonging to the United States; although there are no laws which authorize our rescuing them from the fangs of those monsters; and although the President has given no positive instructions on this head; still, as humanity obviously calls on us to exercise the power, having the means in our hands; as it is a duty implied by instructions subsequently given me by the measures adopted for the suppression of piracy, and as it is enjoined on me by the government to harmonize and co-operate with the forces of any other power engaged in the same pursuit with ourselves, thereby shewing a common interest, I will take on myself to supply the omission, (as it certainly is one,) by authorizing the act whenever it may become necessary.

All vessels, therefore, of any nation whatever, found in the possession of pirates, may be taken from them as though they belonged to the United States, and as though their recapture was provided for by the laws for the suppression of piracy, and by the most positive instructions of the Government.

Those instructions, although swelled to an unusual length, are rendered as concise as the subject would admit of, to enable me to inform you fully as to the views of the Government. We have a very delicate duty to perform—and with full confidence in the discretion of those I have the honour to command, I hope it may be fulfilled to the satisfaction of our country, to our own honour, and to the honour and general interests of the Navy.

In time of actual warfare between nations, there can be no difficulty in discriminating between right and wrong; but the service, on which we are engaged, requires the exercise of our soundest judgment, and in proportion to the difficulty of discriminating, will be the merit of doing what is proper.

The eyes of the world are on us, and while we must not fail in energy, we must not want in circumspection.

D. PORTER.

U. S. Ship John Adams, Norfolk, Jan. 28th, 1824.

(I.)

The counsel of Commodore Porter suggests that the second charge, and what purport to be the five specifications of the facts and circumstances, intended to be proved in support of such charge, are altogether insufficient to put the accused to answer, or to give this Court jurisdiction to try any matter therein alleged.

The following objections to the same are deemed unanswerable and fatal.

1. The principal charge itself describes no offence, within the terms of any of the Naval articles of war, by which all the military crimes and punishments, affecting officers of the Navy, are enumerated and defined: and is altogether vague and uncertain, as to the nature and degree of the offence intended to be charged.

2. The specifications are not conceived in terms, any more appropriate or precise, to constitute any offence known to the Naval code, established by such articles.

3. Even if any such offence could be inferred, either substantially, from the charge itself, or from the charge and specifications, collectively, still the specifications are altogether vague, indefinite, and uncertain, as to the facts, circumstances and criminal intents, to be adduced and proved in support of the principal charge.

4. The specifications do not follow and support, but are a departure from the *gravamen* of the principal charge: and (if conceived in terms tending to any sensible and legal conclusion) constitute separate and distinct charges; not necessarily comprehended in the terms of the principal charge.

If the learned Judge Advocate should conceive that this charge, and the several specifications of the same, are susceptible of being justified and supported, the counsel of Commodore Porter would very respectfully ask for an opportunity to corroborate his objections by authority: and to reply to any reasons that may be advanced, on the part of the prosecution, in answer to such objections.

13*th July*, 1825.

(L.)

NAVY DEPARTMENT, *July* 19*th*, 1825.

SIR: In compliance with your wish, I have requested, of the Attorney General of the United States, an answer to the questions, proposed in your letter of the 18th instant

I now enclose to you, a copy of my letter to him, and of his answer

I am, very respectfully, sir, your most obedient servant,

SAML. L. SOUTHARD.

RICHARD S. COXE, Esq. *Judge Advocate Genl. Court Martial.*

(M.)

NAVY DEPARTMENT, *July* 18*th*, 1825.

SIR: I have this evening received from the Court Martial, now sitting at the Marine Barracks, Washington, a letter of which the enclosed is a copy. It proposes certain questions, on which your opinion is desired. I have, therefore, to beg the favour of you, to furnish me, at as early an hour as your convenience will permit, an answer to the questions proposed, that I may transmit it to the Court.

Should any papers, or documents, be required, in preparing an answer, I will endeavour to procure, and furnish them, without delay.

I have the honour to be, with very great respect, sir, your most obedient,

(Signed,) SAML. L. SOUTHARD.

Honourable WM. WIRT, *Attorney General U. States.*

(N.)

OFFICE OF THE ATTORNEY GENERAL OF THE UNITED STATES,
July 15th, 1825.

SIR: I am just honoured with your letter of last night, enclosing one from Mr. Coxe, the Judge Advocate of the Court Martial, now sitting on the trial of Commodore Porter, expressive of the wish of that tribunal, that you would take the opinion of the Attorney General on two questions of law, which have been presented for their decision in the course of the discharge of their judicial duties. I beg leave to observe, that the Attorney General has no authority to give an official opinion, except in the cases especially provided by law "whose duty it shall be," says the law, "to give his *advice* "and opinion upon questions of law, when required by the Presi- "dent of the United States, or when requested by the heads of any "of the Departments touching any matters that may concern their "departments." The construction of this provision has been, that whensoever the President, or any head of a Department, has an official duty to perform, he has a right to call for the opinion of the Attorney General, on any question of law, for the purpose of assisting him in the discharge of that duty. This has been the construction on which I have acted since I have been in office, and with the entire approbation of the President and heads of Departments. Indeed, on any other construction, the duties of the Attorney General would be wholly impracticable.

Now, I apprehend, that the Court Martial, in this case, having been organized, and the charges laid before them, the Head of the Navy Department has no duties to perform in giving their judicial decisions. And since it is only in relation to his own duties that the Secretary can call for the opinion of the Attorney General, or that the Attorney General has any authority to give an opinion, it follows, that I must, on this, as I have been constrained to do on several former occasions, beg to be excused from doing what I think unauthorized, and therefore wrong.

I have the honour to remain, sir, with very great respect, &c.

(Signed) WM. WIRT.

To the Honourable SAMUEL L. SOUTHARD, *Navy Department.*

(O.)

MR. PRESIDENT: Since the course which has been taken, with the objections of my counsel to the terms of the second charge, and its specifications, is likely to produce delay; and, instead of simplifying, as was intended, rather to perplex and embarrass the procedure of the Court, I have determined to withdraw these objections, in so far as they present any *preliminary* question to be discussed and decided upon the face of the charge and specifications themselves, independent of any examination of the evidence to be adduced in support of them.

I have decided on this course, with the less hesitation, in consideration of being distinctly advised, by my counsel, that all these ob-

jections are equally available, under the general issue of "not guilty," as in any other form; unless that which turns upon the defect of sufficient minuteness and precision in the specifications of time, place, manner and circumstances of the acts imputed to me, may be an exception. 'Tis not that the latter objection, or the rule, which it supposes to have been violated, is by any means, to be regarded as frivolous or captious; or as unessential to the great principles of substantial justice, by which the salutary forms of procedure in such cases, have been prescribed. On the contrary, I am made experimentally sensible, in this very instance, of the value of the rule, and of the practical mischief and injustice resulting from the palpable breach of it, apparent on the face of my pending accusation; for I solemnly declare, that after the minutest recollection, and the most mature reflection, upon all the passages of my professional life, which, by any possibility, may be the subject of this complaint; and after all that has been said in the recent discussion, I remain at this moment, utterly perplexed and puzzled, even to conjecture what are the particular facts and circumstances of my imputed guilt, that are pointed at, and intended to be adduced against me, under several of the most important of these five specifications: I am unable to do more than to form a probable, though vague conjecture.

Yet, so long as I am assured that I am not to be entrapped, by taking issue upon the charge, to be held to a conclusive admission of its validity, or of the legal sufficiency of the facts to be given in evidence under it, as describing or constituting any offence for which I am amenable to martial law, I must be content to forego, (if such be the necessary consequence of pleading to issue) every advantage from the defect of reasonable certainty and minuteness, in the specifications; and to encounter every disadvantage of ignorance, from the want of fair and regular notice of the circumstances wherein my offence is supposed to consist.

Since it appears that I am not entitled to reply to any of these topics in the discussion of a preliminary point, and since it is most unexpectedly intimated that doubts on the subject exist with the Court; and as I feel that justice to myself requires, that I should have an opportunity of controverting whatever may have been advanced to effect either my honour or the mere law of my case; I have taken the only course left open to me, which is to waive the objections as matter of separate and preliminary discussion; and to reserve them, or such of them, as may be available for my general defence.

I do therefore, Mr. President, offer myself ready to go on with the trial of this second charge, and its specifications, upon the general issue, before tendered under protest; reserving for my general defence, all such exceptions of law or fact, as shall be admissible and available in that defence.

I beg leave further to suggest, that it is essential to my defence, that I should be more precisely and minutely informed of the pro-

positions of fact or law, advanced against me, than I can be from a cursory reading of the long and elaborate argument of the Judge Advocate; many parts of which, were but indistinctly heard and comprehended, in the course of that reading. I therefore request to be favoured with a copy of that document, as a part of the proceedings of the Court, or such access to it as may be equivalent. I do not anticipate that there can be objection to this request, since the reasonableness of it is apparent. Although the nature of my objections was distinctly intimated on the second day of this Court's session; and were specifically drawn out and stated in writing, as early as Wednesday the 13th instant, and though the reasons and authorities at large were distinctly read in open Court, on Friday the 15th; yet, it seems, that because from some accidents, which I extremely regret, as it must have infinitely enhanced the labours of the Judge Advocate, the fair transcript of the argument in support of the objections, was not put into his hands 'till ten or eleven o'clock on Sunday the 17th—he was compelled to defer the preparation of his argument 'till he was in full possession of the written transcript of that which he was to answer. If a gentleman, possessing the acuteness and quickness of perception, the learning and ingenuity thus strongly manifested in the composition of an argument, so full of learned research, and various illustration; and so elaborate, and so diffuse, which occupied no longer time than from ten or eleven on Sunday morning, 'till it was time to meet the Court next morning; if a gentleman so gifted, laboured under so much disadvantage from the absence of the paper he was to answer, you may judge, Mr. President, how necessary it is for me to be possessed *in extenso*, of the argument by which many important points of my defence are so strongly affected.

A.

NAVY DEPARTMENT, *August 11th*, 1825.

SIR: In pursuance of the application of the General Court Martial, of which you are President, and for the better accommodation of all concerned, permission is hereby granted to the Court, to adjourn, for the remainder of its sessions, to that central, and commodious building, on 1st street east, and the corner of Maryland avenue, formerly occupied by the Congress of the United States.

I am, very respectfully, sir, your most obedient servant,

SAML. L. SOUTHARD.

Capt. JAMES BARRON, *President General Court Martial.*

B.

NAVY DEPARTMENT, *12th August*, 1825.

SIR: I have received and submitted to the Executive, your letter of yesterday's date, in which you say—"I transmit a paper "handed me by Commodore Porter, since the adjournment of the "Court this day, purporting, as I understood from him, to be a con- "tinuation of his defence. He stated, also, that the residue woul

"be transmitted as soon as practicable." You also apprise me, that this paper has not received the sanction of the Court.

The Executive is solicitous to possess all the lights, which can be useful, in forming a decision upon the case of Commodore Porter, and especially desires to be aided by every thing legally urged in his defence. But it would be obviously improper for the Executive, to receive and consider any paper not transmitted to him by the Court itself, as forming a part of its proceedings.

I am therefore directed to return the paper to you, that you may submit it to the Court, with the time and manner, in which it was handed to you, that the Court may pass its own judgment upon it, by receiving and transmitting it, as the defence which the accused did make, if the Court think proper so to do.

This has been adopted as the proper mode of obtaining a decision on the paper as a part of the record, and that Captain Porter may have all the benefit of it in his defence, that is possible.

The length of the document, and the time which might necessarily be consumed in reducing it to writing, present motives for this indulgence, with the most perfect respect for the Court, and without questioning the propriety of the decisions which it has heretofore made in relation to the defence.

I return to you the record and papers, that you may place them again in possession of the Court.

I am, respectfully, &c. SAML. L. SOUTHARD.

RICHARD S. COXE, Esq. *Judge Advocate of the General Court Martial.*

(No. 1.)

ONE THOUSAND DOLLARS REWARD!

The store of the subscribers was forcibly entered on the night of the 24th inst. and the following articles taken therefrom.

A § 18.—1 case 4-4 Birds Eye Handkerchiefs, containing 25 pieces, each piece 20 Handkerchiefs of different patterns.

W 63 & 64.—2 cases damask figured Handkerchfs. contain 25 ps. each - are - 50 pieces.

P 181—187.—4 cases India Sewing Silks, each case 50 lb. say 13 lbs. of black and 37 lb. assorted colours, put up in Spanish style.—200 lb.

SGP—2 trunks Madras Handkerchiefs 60 ps. each—120 ps.

" 2 half trunks ditto ditto 30 ps. do. 60 ps.

H A S § 21—1 case 4-4 cross barr'd Handkerchiefs, 20 hdkfs. in each ps., containing 25 ps.

A § 15—1 case damask figured Handkerchiefs 25 ps.

K 1 case Birds-eye Handkerchiefs 25 ps.

J L § 11—1 case 7 4 Crape Shawls containing 37 ps.

2 half boxes Cigars "Cabanas."

The above Reward will be given for the Apprehension and Conviction of the Thief or Thieves, and one fourth part of the Goods recovered. CABOT, BAILEY & CO.

St. Thomas, 25th October, 1824.

(No. 2.)

SIR: I this morning received a letter from Mr. J. J. Atkinson, of Ponce, Porto Rico, who states that while on board the Mary Ann, of Baltimore, J. Dukehart, master, from this place bound for Ponce, the crew of said brig mutinied, and in the fray the papers of the vessel were lost overboard. He also mentioned that the crew of the brig Cadmus, of Kennebunk, has also mutinied in the port of Ponce—the mutineers are confined in the jail of Ponce, but the authorities of the Island have informed the Captains that they would be kept till the vessels were ready for sea only.

It will be necessary for either you or Captain Sloat to proceed, if possible, to Ponce, and give the Mary Ann a document with which she can proceed to Baltimore, as the shippers have refused to ship till she is regularly documented. I remain, with respect, your obedient servant,

WM. FURNISS.

St. Thomas, 1st February, 1825.

To CHARLES T. PLATT, *Esq. Commdt. U. S. Sch. Beagle, St. Thomas.*

(No. 3.)

U. S. SCH. BEAGLE, *Harbour St. Thomas, February 10th, 1825.*

SIR: Having this day returned from a visit to Ponce, a village in the Island of Porto Rico, somewhat similar, and not far distant from Faxardo, under circumstances so widely different from those of my former visit to that Island, I do therefore beg leave to lay before you the circumstances that induced me to visit it, and more particularly the reception that I met with, although no part of my uniform was different from that which I wore at Faxardo, nor had I in any respect improved in my address. I mention this with feelings of pure American pride, as prejudices much to my injury, particularly with such as I am not personally acquainted with, may have grown out of the Spanish account, of my piratical appearance at Faxardo.

On the 2d day of this month, I received from Mr. Furniss, Commercial Agent at St. Thomas, a letter stating that the crews of two American merchant vessels had mutinied, and that those vessels were then at anchor in the harbour of Ponce, and in want of the assistance of some one of the U. S. vessels of war; and *furthermore*, that the master of a vessel then at St. Thomas, was desirous of obtaining convoy to the same place. Under such circumstances, I could not hesitate for a moment in fully complying with the request. Consequently, as soon as was practicable, I got under way, and two days after anchored in the harbour of Ponce, at which place as at Faxardo, I visited the shore in person. No indignation nor indignities were offered to my person, or the flag the Beagle bore; but on landing was invited to a public house, refreshments were offered me, and in a very short time I arranged all things relating to the merchantmen, to the entire satisfaction of their respective masters. As soon as was practicable, the Captain of the Fort, accompanied with numbers of the most respectable citizens, made their appearance; when, to my no small gratification, they saluted me in

the most cordial and friendly manner. He, the Captain, did not ask or demand my commission. He beheld nothing in my features that indicated that cowardly and hell-like visage of a *Pirate;* nor did he discover any thing other than that deportment which I have honestly inherited. In evidence of which I need only to observe, that I was waited upon, and requested to exchange salutes with the Fort, which was complied with. A carriage was prepared, as well as one of the most genteel dwellings, for my sole use during my stay. It was not my intention to have remained longer than was absolutely necessary to accomplish the object of my visit, but from the urgent and numberless invitations, pressing me to remain and accept of a dinner already ordered for myself and officers, (a refusal of which would have carried with it a conviction of the truth of my uncouth manners, which had been so elegantly polished by the Faxardians,) I was induced to accept the invitation, and on the day following partook of a splendid dinner, (the Alcalde at the head of the table,) with not less than thirty-five of the first and most respectable citizens and planters in that vicinity. After the cloth was removed, many complimentary toasts were given, which in turn were reciprocated by the officers of the Beagle and myself. At 9 in the evening I withdrew, and returned on board the Beagle, after having spent five hours, during which time the most cordial degree of friendship prevailed throughout the company. The next morning I left the port, having previously established private signals with the Captain of the Fort, that our respective forces might co-operate In the suppression of piracy.

I have the honour to be, respectfully, your obedient servant,

CHARLES T. PLATT, *Lt. Com'dt, Beagle.*

Com. DAVID PORTER.

(No. 4.)

NAVY DEPARTMENT, *1st February*, 1823.

Com. DAVID PORTER, *Comm'd'g U. S. Naval forces in the West Indies, present:*

SIR: You have been appointed to the command of a squadron fitted out under an act of Congress of the 20th of December last, to cruise in the West India Seas and Gulf of Mexico, for the purpose of suppressing piracy, and affording effectual protection to the citizens and commerce of the United States. Your attention will also be extended to the suppression of the slave trade, according to the provisions of the several acts of Congress on that subject; copies of which, and of the instructions heretofore given to our Naval Commanders thereon, are herewith sent to you, while it is your duty to protect our commerce against all unlawful interruption, and to guard the rights, both of person and property, of the citizens of the United States, wherever it shall become necessary: you will observe the utmost caution not to encroach upon the rights of others; and should you at any time be brought into discussion or collision, with any foreign power, in relation to such rights, it will be expedient

and proper that the same should be conducted with as much moderation and forbearance, as is consistent with the honour of your country, and the just claims of its citizens.

Should you, in your cruise, fall in with any foreign Naval force, engaged in the suppression of piracy, it is desirable that harmony and a good understanding should be cultivated between you; and you will do every thing on your part, that accords with the honour of the American flag, to promote this object

So soon as the vessels at Norfolk shall be ready for sea, you will proceed to the West Indies, by such route as you shall judge best for the purpose of effecting the object of your cruise; you will establish at Thompson's Island, usually called Key West, a depot, and land the ordnance and marines, to protect the stores and provisions; if however you shall find any important objection to this place, and a more suitable and convenient one can be found, you are at liberty to select it as a depot. You will announce your arrival and object to the authorities, civil and military, of the Island of Cuba, and endeavour to obtain, as far as shall be practicable, their co-operation; or at least their favourable and friendly support, giving them the most unequivocal assurance, that your sole object is the destruction of pirates.

The system of piracy which has grown up in the West Indies, has obviously arisen from the war between Spain and the new governments, her late provinces in this hemisphere; and from the limited force in the Islands, and their sparse population, many portions of each being entirely uninhabited and desolate, to which the active authority of the Government does not extend. It is understood that establishments have been made by parties of these banditti in those uninhabited parts, to which they carry their plunder, and retreat in time of danger. It cannot be presumed that the government of any Island will afford any protection or countenance to such robbers. It may, on the contrary, confidently be believed that all governments, and particularly those most exposed, will afford all means in their power for their suppression. Pirates are considered by the law of nations, the enemies of the human race. It is the duty of all nations to put them down; and none who respect their own character or interest, will refuse to do it, much less afford them an asylum and protection. The nation that makes the greatest exertions to suppress such banditti, has the greatest merit. In making such exertions, it has a right to the aid of every other power, to the extent of its means, and to the enjoyment, under its sanction, of all its rights in the pursuit of the object. In the case of belligerents, where the army of one party enters the territory of the neutral power, the army of the other has a right to follow it there. In the case of pirates, the right of the armed force of one power, to follow them into the territory of another, is more complete. In regard to pirates, there is no neutral party; they being the enemies of the human race, all nations are parties against them, and may be considered as allies. The object and intention of our government is to

respect the feelings as well as the rights of others, both in substance and in form, in all the measures which may be adopted to accomplish the end in view. Should, therefore, the crews of any vessels which you have seen engaged in acts of piracy, or which you have just cause to suspect of being of that character, retreat into the ports, harbours, or settled parts of the Islands, you may enter in pursuit of them, such ports, harbours or settled parts of the country, for the purpose of aiding the local authorities, or people, as the case may be, to seize and bring the offenders to justice, previously giving notice that this is your sole object. Where a government exists, and is felt, you will in all instances respect the local authorities, and only act in aid of, and co-operation with them, it being the exclusive purpose of the government of the United States to suppress piracy—an object in which all nations are equally interested; and in the accomplishment of which, the Spanish authorities and people will, it is presumed, cordially co-operate with you. If, in the pursuit of pirates found at sea, they shall retreat into the unsettled parts of the Islands, or foreign territory, you are at liberty to pursue them, so long only as there is reasonable prospect of being able to apprehend them; and in no case are you at liberty to pursue and apprehend any one, after having been forbidden so to do, by competent authority of the local government; and should you, on such pursuit, apprehend any pirates upon land, you will deliver them over to the proper authority, to be dealt with according to law, and you will furnish such evidence as shall be in your power, to prove the offence alleged against them. Should the local authorities refuse to receive and prosecute such persons so apprehended, on your furnishing them with reasonable evidence of their guilt, you will then keep them safely and securely on board some of the vessels under your command, and report, without delay, to this Department, the particular circumstances of such cases.

Great complaints are made of the interruption and injury to our commerce, by privateers fitted out from Spanish ports. You will endeavour to obtain from the Spanish authorities a list of the vessels so commissioned, and ascertain how far they have been instructed to intercept our trade with Mexico and the Colombian Republic; impressing upon them, that, according to the well settled rule of the law of nations, the United States will not consider any portion of coast upon the Gulf of Mexico as legally blockaded, except where a naval force is stationed sufficient to carry into effect the blockading order or decree; and that this government does not recognise the right or authority of Spain to interdict or interrupt our commerce with any portion of the coast included within the Colombian Republic or Mexican government, not actually blockaded by a competent force.

All the United States ships and vessels of war in the West Indies, of which a list is herewith enclosed, are placed under your command; and you will distribute them to such stations as shall appear to you best calculated to afford complete protection to our com-

merce, in which you will embrace the object of protecting the convoy of specie from Vera Cruz and the Mexican coast generally, to the United States ; keep one vessel at least, upon this service, to be at or near Vera Cruz, during the healthy season of the year, and to be relieved as occasion shall require, both for convoy of trade, and to bring specie to the United States—confining the transportation to the United States only.

You will be particularly watchful to preserve the health of the officers and crews under your command, and to guard in every possible manner against the unhealthiness of the climate ; not permitting any intercourse with the shore where the yellow fever prevails, except in cases of absolute necessity.

Wishing you good health, and a successful cruise, I am, very respectfully, sir, your obedient servant,

(Signed,) SMITH THOMPSON.

I certify the foregoing to be a true copy from the original on file in this Department. CHAS. HAY, *Chief Clerk.*

NAVY DEPARTMENT, *July* 6, 1825.

(No. 5.)

Captain Porter has the honour respectfully to state to the President of the United States, that, agreeable to the suggestion of the Prest. he, on the 16th of last month, addressed a letter to the Secretary of the Navy, requesting an investigation of his conduct, in relation to the affair of Faxardo, and the charges of Mr. Randal, as early as was consistent with the public interests ; and on the same day he received what purported to be the Secretary's reply, informing him the Executive had determined that a Court should be formed, to examine into the occurrences, so soon as circumstances will permit.

Captain P. consequently waited with patience until the 13th of this month, when, not being able to learn that any steps were taken towards the accomplishment of the Executive will, he again addressed the Secretary in the most urgent but respectful manner, to cause his conduct to be investigated, and allow him, if innocent, to relieve himself from the truly unpleasant situation in which the order for his recall has placed him.

No notice has yet been taken of this request, and Captn. P. despairs of justice from any other quarter, begs and intreats that the President of the United States will cause it to be rendered to him.

WASHINGTON, *April* 17*th*, 1825.

I certify the foregoing to be a true copy from the original on file in this Department. CHAS. HAY, *Chief Clerk.*

NAVY DEPARTMENT, *July* 6, 1825.

(No. 5.)

U. S. SHIP JOHN ADAMS, *Passage Island*, 15th *Nov.* 1824.

SIR: I have the honour to inform you that, on my arrival at St. Thomas, I was informed that Lieut. Comdt. Platt, of the U. S. schooner Beagle, who had visited Faxardo, a town on the east coast of Porto Rico, about two miles from the sea, for the purpose of making inquiries respecting a quantity of dry goods, supposed to have been deposited there by pirates, was, after being recognized as an American officer, by the proper authorities there, imprisoned and shamefully treated.

Indignant at the outrages which have so repeatedly been heaped on us, by the authorities of Porto Rico, I proceeded to this place, where I left the ship, and taking with me the schrs. Grampus and Beagle, and the boats of the John Adams, with Captain Dallas, and part of his officers, seamen and marines, proceeded to the port of Faxardo, where, finding preparations were making to fire on us from the battery on shore, I sent a party of seamen and marines to spike the guns, which was done in a few minutes, as the Spaniards fled on the landing of the party. I then landed with two hundred men, and marched to the town, spiking on the way the guns of a small battery, placed for the defence of a pass on the road, and reached the town in about thirty minutes after landing. I found them prepared for defence, as they received information from St. Thomas's of my intentions of visiting the place. I halted about pistol shot from their forces, drawn up on the outskirts of the town, and sent in a flag, requiring the Alcalde or Governor, with the Captain of the Port, the principal offenders, to come to me to make atonement for the outrage, giving them one hour to deliberate. They appeared accordingly, and after begging pardon (in the presence of all the officers) of the officer who had been insulted, and expressing great penitence, I permitted them to return to the town, on their promising to respect all American officers who may visit them hereafter. We then returned to the vessels, and left the harbour, after being at anchor three hours.

As we were getting under way, a number of persons appeared on the beach, bearing a white flag, and having with them some bullocks and a number of horses, apparently laden—no doubt a present from the authorities of the place, which they informed me they should send me.

There is no doubt that our persons and our flag will be more respected hereafter than it has been by the authorities of Porto Rico.

Every officer and man, on the occasion, conducted themselves in a manner to meet my entire approbation. I have the honour to be, very respectfully, your obedient servant, D. PORTER.

The Hon. SAM'L L. SOUTHARD, *Secretary of the Navy, Washington.*

I certify the foregoing to be a true copy from the original on file in this Department. CHAS. HAY.

NAVY DEPARTMENT, *July* 6, 1825.

This paper admitted to have been received by the Department on the 4th December, 1824.

(No. 6.)

U. S. Ship John Adams, *Thompson's Island, 30th January, 1825.*

Sir: I have the honour to acknowledge the receipt of your orders of the 27th ult. informing me of your reception of mine, of the 15th of November, relating what you have been pleased to term "the extraordinary transactions at Faxardo," and recalling me from my command for a full investigation of my conduct in that affair.

Agreeable to your orders I shall leave this place for Washington, "without unnecessary delay," and have taken measures to obtain all the testimony necessary, and such written evidence as I supposed useful; and on my arrival in the United States shall hold myself ready to justify my conduct in every particular, not only by the laws of nations and of nature, and by highly approved precedent, but, if necessary, by the orders of the Secretary of the Navy.

To use the emphatic language of Mr. Adams, "by all the laws of neutrality and war, as well as of prudence and humanity," I was warranted in chastising and intimidating the authorities of a place who had not only become the allies and protectors of outlaws and pirates, but our active enemies, by the imprisonment and forcible detention of an American Officer, while in the performance of his duties. "There will need" (continues Mr. Adams,) "no citation from printed treatises on international law, to prove the correctness of this principle. It is engraved in Adamant on the common sense of mankind, no writer upon the laws of nations, ever pretended to contradict it; none of any reputation or authority ever omitted to insert it."

I am willing sir to submit my conduct in this affair to the strictest investigation, and if I cannot fully justify it, I shall cheerfully submit to the severest punishment that can be inflicted; but if it shall appear that the motives which influenced me, were founded in patriotism, that the necessity for my conduct really existed, and that "my vindication is written in every page of the law of nations, as well as the first law of nature, self defence," I shall then hope that atonement will be made for the forcible withdrawal, for an alleged offence, from my command, by restoring me to my former station, and allowing me to retire from it in a manner more honourable to myself and my country, and less injurious to my feelings and character.

This, sir, will be an act of justice that I hope will not be denied to me.

I have the honour to be, with great respect, your ob't serv't,

(Signed,) DAVID PORTER.

Honourable Samuel L. Southard, *Secretary of the Navy, Washington.*

I certify the foregoing to be a true copy from the original on file in this Department. CHAS. HAY, *Chief Clerk.*

Navy Department, *6th July*, 1825.

(No. 6.)

U. S. Schooner Beagle, *St. Thomas, 11th Nov.* 182[illegible].

Sir: At ten in the morning of the 26th of October last, I receiv- intelligence that the American Consul's store had been forcibly ered on the preceding night, and robbed of goods to the amount five thousand dollars. With this report, the American Consul uested me, provided it would prove consistent with my duties, ail in quest of those whom it was supposed had clandestinely the harbour the night preceding, in a small boat, and generally ieved by those acquainted in St. Thomas', to have proceeded to port of Faxardo, on the east end of Porto Rico. I directly gave necessary orders to prepare for sea; having received a good ot on board, I was enabled, by noon, to proceed in quest of the rauders.

Standing along the south side of Crabb Island, discovered a sloop Settlement bay; boarded her and received information of a pira- al sloop-rigged boat to leeward, that had been for some time past esting the coast. This information induced me to alter my course d steer for the west end of Crabb Island. At 10 A. M. discover- a sloop beating to windward, and the small sloop-rigged boat nding from the land. At 10. 50, fired a shot to bring the sloop ; At 10. 55, fired again,—she hove about and stood for the land. oke the sloop from St. Croix bound to St. Tho- s; made all sail for the sloop boat, which run into y, and her crew abandoned her. At 11. 15, came to, and took session of the deserted boat. At 11. 45, made sail and stood the S. E. end of Porto Rico—at sun set came to in the harbour Port Faxardo.

On the morning of the 27th, a Creole visited me from shore, who re an invitation from the Commandant to me to visit him. At 7, M. in company with Lieut. Ritchie, the Pilot and the Consul's lerk, I landed. For our better success we appeared in the char- ters of citizens. On my reaching the shore, the register of my sel was demanded. I explained the object of my visit, and the licy of my appearing in disguise. This, however, proved of no ail; I was not allowed to proceed to Faxardo. Supposing that e person who made these demands had no authority to detain me, in company with Lieut Ritchie, proceeded to the port of Faxar- , and explained in the most satisfactory manner, to the Captain the port, the object of my visit, and produced a private letter om Mr. Cabot, American Consul, to a merchant in that place, in lation to the service in which we were engaged.

Having observed the necessary forms and ceremonies with regard the Captain of the Port, we then waited upon the Alcalde and rther acquainted him with our mission, &c. who proffered us ery assistance; having made a few enquiries in some of the retail res, which had an immediate tendency to bring to light any who y have been engaged in this traffic, we received a positive der to repair to the Alcalde's house, where we were also receiv-

ed by the Captain of the Port, who damned us as pirates, and requested of me, register, papers, &c. &c. I stated I possessed no register, I carried no papers, other than my commission, and that of my officers; we were seized as culprits, and conveyed to prison. To satisfy them of my real character, of which they pretended they had no positive proof, I consented, though repugnant to my feelings, to have my commission sent me. After its production they declared it a forgery, and again remanded us to prison, declaring he would not release us until he had heard from St. Johns. I then demanded to know what was further required; the reply was, "your appointment as Lieut. Commandant of that vessel is what you must produce."

I at first hesitated, and would not comply, but not wishing on my part to commit any action which might have a tendency to disturb the harmony existing between our respective governments, I produced my appointment as Lieut. Commandant. A council of officers was called with other citizens of the place, who, after having heaped upon us the most shameful outrages, permitted us to depart on board. I have the honour to be, very respectfully, your obedient servant, (Signed,) CHAS. T. PLATT,

Lieut. Comd't U. S. Schr. Beagle.

To Com. D. PORTER, *U. S. Navy.*

I certify the foregoing to be a true copy from the file of this Department. CHAS. HAY, *Chief Clerk.*

NAVY DEPARTMENT, *July 6th*, 1825.

(No. 7.)

WASHINGTON, *16th March*, 1825.

SIR: It is now sixteen days since I had the honour to report to you my arrival here in obedience to your orders, of 27th December, and I have anxiously since awaited your further instructions.

I am aware, sir, of the interruptions the recent changes in government, and other circumstances, have occasioned to the transaction of public business, and however irksome and uncertain may be my present situation, and whatever anxiety I may feel on the occasion, it is not my wish to press on the Department my own affairs in preference to those of more importance; I cannot, however, help requesting that there may be as little delay in the investigation of my conduct, both as regards the affair of Faxardo, and the statements of Mr. Randall and Mountain, and is consistent with the public interests.

The state of ignorance and uncertainty in which I have been kept, as to the intentions of the government and the desire of vindicating myself to the government and the public, and relieving myself from a species of suspension and supposed condemnation, must be my apology for now troubling you.

Officers continue to make to me their reports, and to request of me orders. Not knowing whether the Department still consider

me in command of the West Indies Squadron, I have been at a loss how to act: will you be pleased to instruct me on the subject.

I have the honour to be, with great respect, your obd't serv't,

D. PORTER.

Hon. SAMUEL L. SOUTHARD.

I certify the foregoing to be a true copy from the original on file in this Department. CHAS. HAY *Chief Clerk.*

NAVY DEPARTMENT, *July* 6, 1825.

(No. 7)

ST. THOMAS, 12*th November*, 1824.

SIR: I have the honour to inform you, that the store of Cabot, Bailey & Co. was broken open on the night of the 24th ulto. and property to a considerable amount stolen; and having strong reasons to believe that the robbery was committed by a gang of thieves, who harbour in the Island of Porto Rico, I communicated the same to Captain Platt, of the U. States schooner Beagle, and very promptly offered to go there in pursuit of them, and started for Faxardo on the morning of the 25th with a pilot which I furnished him, and a young man from the counting house, with a description of the goods, and a letter of introduction to Mr. Juan Campos, from one of the most respectable houses in this place, and well known in that quarter. The manner in which Capt. Platt was received and treated, has no doubt, been communicated to you by him.

I beg leave to enclose a letter from Messrs. Bergeest & Whlhorn, confirming the facts of the late robberies in this Island having, in most instances, been traced to the quarter of Porto Rico, where Capt. Platt went.

I have the honour, sir, with great respect, your most ob't serv't,

(Signed,) STEPHEN CABOT.

To Commodore DAVID PORTER. *U. S. Consular Agent.*

I certify the foregoing to be a true copy from the files of this Department. CHAS. HAY, *Chief Clerk.*

NAVY DEPARTMENT, *July* 6, 1825.

(No. 8.)

WASHINGTON, 13*th April*, 1825.

SIR: I hope it will not be considered obtrusive in me to remind you of the extremely unpleasant situation in which your orders of the 27th December has placed me.

You will recollect, no doubt, that they required me to repair to this place *without unnecessary delay*, to explain my conduct in relation to the Faxardo affair; from this positive injunction, they deprived me of the opportunity, without taking on myself great responsibility, of obtaining by personal application, the written testimony necessary in the case; not knowing the causes which influenced you in urging my recall so speedily, and not wishing to have unnecessary delay ascribed to any wish on my part, the day of my

arrival here (the 1st of March,) I reported to you my attendance on your further orders. No notice being paid to this report, after an interview had with the President, I again addressed you at his suggestion, on the 10th of the same month, and on the same day I received your letter, apprising me that, by the determination of the Executive, a Court of Inquiry would be formed, to examine into the occurrences at Faxardo, as well as the charges of Mr. Randall, so soon as circumstances will permit.

Since that time, I have waited patiently your convenience, regardless of the anxiety and importunity of my friends, not wishing to press my business on you to the exclusion of matters which might now appear to you of more importance to the public interest, than the investigation of my conduct in the Faxardo affair, or the charges against myself and others as contained in Mr. Randall's statements. I must beg leave to observe to you, however, that the manner of my recall, proves that, at the time your order of the 27th December was issued, the investigation of the affair which caused it, was considered of great national importance, and a note subsequently received from Mr. Monroe, not only confirms this belief, but proves that he still thought so after he had gone out of office. I must also beg leave to observe, that whatever opinion may be entertained now, the punishment to me is none the less on account of the change, if any change has taken place. The affair of Faxardo was the occasion of my recall—the affair of Faxardo was the occasion of my being displaced from my command—it is that affair which now keeps me suspended from the exercise of my official functions—it was that which caused you to pronounce censure on me. to punish and degrade me, before any complaint against me, before trial, and before I was called on for explanation.

If, sir, opinion is changed; if, by information since received from other quarters, you have been induced to believe that the public interests do not require so much haste in the investigation as you at first supposed, it would seem but just that my own anxieties, and the anxieties of those whose peace of mind I regard, and good opinion I highly respect, should be relieved, by some intimation of your intentions with regard to me, that there should be in fact some relaxation in the severity of the course adopted toward me.

It is with reluctance that I trouble you with any complaint whatever, but I feel that I should neither do my duty to myself, to what I owe to others, and indeed to the service to which I belong, if by a longer silence, I gave reason to believe that I acquiesced in a course of conduct toward me, which, when a full investigation takes place, and all the facts are known, few I think, will acknowledge is founded on justice.

The Executive, it appears, has decided that a Court of Inquiry shall be ordered to investigate my conduct. Why then deprive me of the opportunity of making my explanation, by delaying the execution of the Executive will? Upwards of six weeks have elapsed since I reported my arrival here, and as yet I only know the determination of the Executive

The time when, the place where, and by whom the investigation is to be made, are unknown to me; no definite period is fixed on for the holding of the Court, and I therefore most respectfully ask, what is your determination with respect to me? that I may know what course of conduct it would be proper for me to pursue.

I have the honour to be, your obedient servant,

D. PORTER.

Honourable SAML. L. SOUTHARD.

I certify that the foregoing is a true copy from the original on file in this Department.

CHAS. HAY, *Chief Clerk.*

NAVY DEPARTMENT, *July* 6, 1825.

(No. 8.)

SIR: At the request of our friend, Mr. Stephen Cabot, we beg leave to state to you some facts relative to the robbery lately committed in this Island.

Our own store, and amongst others, those of our neighbours, Messrs. Ellis, Gibson & Co. John Kettle, Esq. Robert Alexander, Esq Saubot, Zobert, & Co. were forcibly broken open, property to a very large amount stolen, and a considerable part of the goods traced to Naguabo, near Faxardo; in consequence of which, and the circumstance that about ten days previous to the robbery committed in the store of Messrs. Cabot, Bailey, & Co. a gang of desperate thieves made their escape from the prison, at the City of Puerto Rico; as also every search had been made here on shore, as well as in the harbour, and nothing discovered, except that the goods stolen had been carried off by the sea side, induced us to recommend to those gentlemen sending down a person to Faxardo, as being probable the means of tracing the robbers.

Desirous of assisting our friends Messrs. Cabot, Bailey, & Co. in this object, we gave one of their Clerks, and whom we understood was to go down in the U. S. schooner Beagle, a letter of recommendation to our friend, Mr. Juan Campos in Faxardo, who had on former occasions of the same nature, been the means of discovering the property and perpetrators, in the case of Messrs. Ellis, Gibson, & Co. and our own.

We have the honour to be, with sentiments of the highest regard, sir, your obedient humble servants,

BERGEEST & WHLIHORN.

ST. THOMAS, 11*th November*, 1824.

To Commodore DAVID PORTER.

I certify the foregoing to be a true copy from the files of this Department.

CHAS. HAY, *Chief Clerk.*

NAVY DEPARTMENT, *July* 6, 1825.

(No. 9.)

MERIDIAN HILL, 14*th June*, 1825.

SIR: I have received your letter of yesterday's date, acknowledging the receipt of a pamphlet published by me, respecting the proceedings of the Court of Inquiry, and transactions at Faxardo; and expressing your surprise that I should have considered it proper, while my case and the report of the Court of Inquiry, were still under consideration of the Executive, to make a publication relating therto; and especially a publication, in so many respects, deficient and inaccurate.

I beg leave to state to you, that the publication alluded to. was put to press, and nearly ready for distribution, before I received any intimation from you of an opinion on the part of the Executive, that further proceedings in the case were deemed necessary; an intimation which occasioned to me great surprise, and it was only the hope of removing from the mind of the Executive an idea of this necessity which induced me to circulate it, after being so notified, as you will perceive by the note accompanying the pamphlet sent you a few days after your notification; a notification which, pardon me, sir, I did believe was intended for the sole purpose of stopping my publication, as I could find no other motive for it, nor have I yet been able to find any other, as I am to this day not arrested, as I was informed by you I should be in a few days.

If, by an intimation of the deficiencies and inaccuracies which my pamphlet contains, it is intended to convey the idea of a wilful misrepresentation on my part, I beg you to point out in what it consists. The record of the proceedings as published, are copied from the record of the Judge Advocate, and the documents, whether rejected or otherwise, for or *against me*, so far as I could possess myself of them, accompany the publication, and I certainly have not omitted any against me, that were admitted by the Court as testimony; to the contrary, I have inserted one of that character, which was rejected by the Court as unauthentic, to wit, the Porto Rico publication. There are one or two trifling typographical errors, the most important of which is the word *clothes* instead of colours, in the testimony of Mr. Platt. page 15, and I think an omission to italicise the words "fearful odds," in page 37, which surely cannot be the inaccuracies and deficiencies alluded to, as the first error is calculated to operate against myself. and the other, if it really exists, is of no importance. There is also an unimportant letter from you to the Court, transmitting the rejected documents, which by a note in page 31. and the report of the Court. which by a remark in page 32. I acknowledge not to be in my possession.

The first was refused to me by the Judge Advocate; the latter, I am still ignorant of, but the publication of both I now respectfully invite.

The anonymous publication in yesterday's Journal, of the same date of your letter, and taken in connexion with the language of it

leaves no doubt of the source whence it originated; I, consequently, considering my relationship to the Department, feel restrained from making suitable comments thereon; it is therefore only left for me to express the hope that the promised period for rectifying the errors, and supplying the deficiencies which are said to exist in the pamphlet, may soon arrive, and until it does, I hereby voluntarily pledge my "sacred honour" that none will appear in it, except those I have indicated, so far as I could, by every effort on my part, obtain a knowledge of the proceedings of the Court, and I have no doubt I have obtained them correctly.

If it is intended to intimate that the reasonings contained in my defence are fallacious, and present an improper view of the subject, I can only say that they are the expressions of my honest, unaided opinions and convictions, and that I should have delivered them before the Court, had I been allowed the opportunity of doing so.—They are before the public; the public will judge of their value, and I now more than ever feel the necessity of appealing to its decision.

I am not impatient of it, and wait the convenience of the Department, in whatever measures it may think proper to adopt towards me.

I take the liberty to remind you that I am still ignorant of the opinion of the Court of Inquiry on the charges of Messrs. Randall and Mountain, and to request that it may be laid before the public, that it may be able to judge whether I am innocent or guilty of them. If the Court have pronounced me innocent, I am entitled to all the benefits of their opinion; if I am guilty, I am unworthy of holding my commission, and should wish no longer to disgrace it.

I have the honour to be, your obedient servant,

D. PORTER.

Hon. SAML. L. SOUTHARD.

I certify the foregoing to be a true copy from the original in this Department. CHAS. HAY, *Chief Clerk*.

NAVY DEPARTMENT, *July* 6, 1825.

(No. 10.)

WASHINGTON, *2nd May*, 1825.

SIR: The accompanying pamphlet, which was put to press shortly after the proceedings of the Court of Inquiry on the Fazardo affair, contains all the explanations I shall ever be able to make, in justification of my conduct.

I never had, at any time, any doubts of the propriety of the course I pursued, nor have I now, and it will be the source of great regret to me, if, after a perusal of the pamphlet, further proceedings in the case should be thought necessary.

If it be thought that I have erred in judgment, the purity of my intentions, I presume, cannot be doubted.

I have the honour to be, with great respect, your obedient servant, (Signed) D. PORTER.

Hon. SAM'L L. SOUTHARD.

I certify the foregoing to be a true copy from the original on file in this Department. CHAS. HAY, *Chief Clerk.*

NAVY DEPARTMENT, *6th July*, 1825.

(No. 11, the pamphlet referred to in the 2nd Specification, is inserted after No. 43.)

(No. 12.)

Captain Porter having examined the proposed interrogatories Mr. Monroe, on the part of the Judge Advocate, is, after mature reflection, and with the best advice in his power to obtain, utterly at a loss to conceive by what authority the proposed commission to examine Mr. Monroe, in the manner proposed, has been claimed by the Judge Advocate; or how any evidence to be taken under it, can be admitted in the place of the testimony of the witness in person, before the Court; or what legitimate relation or bearing, the evidence, which the said interrogatories import an intention to produce, can have to any matter involved in the present trial.

Having repeatedly called upon the Judge Advocate, for some precise specification of the circumstances wherein the supposed guilt implied by the accusation, under the head of the second charge consists, and of the gist or point of the accusation to which the proposed evidence applies, he forbears any further attempt to penetrate the mysterious and studied silence, by which all reasonable information on this point is concealed. He, therefore, simply proposes the following interrogatories on his part; being all that, under present circumstances, he can conjecture, to be at all pertinent to any fact, of which the Judge Advocate's interrogatories indicate an intention to make inquiry and proof. But he does so under a solemn protest against the legality, the justice, and the fairness, upon any principle of law, equity or candour, of the whole proceedings, and distinctly reserving to himself, when the execution of this pretended commission shall be produced, every proper exception to the regularity or competency of such commission, and of the execution of the same; and to the pertinency and admissibility of any evidence to be offered under it; if to him it shall seem necessary or proper, to interpose such exceptions.

(For No. 13, the original record of the proceedings of the Court of Inquiry, see page 10.)

(No. 14.)

MERIDIAN HILL, *June 15th*, 1825.

SIR, In consequence of an *anonymous* publication which appeared in your paper of the 14th, and dated the 13th, respecting my pamphlet containing the proceedings in the Faxardo affair, &c. I have to request you to publish the accompanying correspondence

Very respectfully, your obedient servant, D. PORTER.

Mr. PETER FORCE

NAVY DEPARTMENT, *May 28th*, 1825.

SIR: The Court of Inquiry, lately assembled at the Navy Yard, Washington, has closed its examination into the matters submitted to it, and made report to the Department.

I am instructed by the Executive, to inform you, that it has been found necessary that further proceedings should be had, in relation to the transactions at Faxardo, and that, in the course of a few days, charges will be preferred, you will be arrested, and a Court Martial summoned for your trial.

I am, very respectfully, Sir, your obedient servant,

SAML. L. SOUTHARD.

Capt. DAVID PORTER, *U. S. Navy.*

WASHINGTON, *May 30th*, 1825.

SIR: Late on Saturday night (the 28th) I received from your messenger, your communication of that date, informing me that the Court of Inquiry had closed its examination into the matters submitted to it, and made report to the Department; also, apprizing me of the intentions of the Executive with regard to me.

Ignorant, as I am, of the report of the Court, I can form no idea of the nature of the charges intended to be preferred against me, the motives of the Executive, or the object of the notification—I have the honour, therefore, to ask of you the necessary information to enable me to prepare for my defence.

With great respect, your very obedient serv't, D. PORTER.

Hon. SAMUEL L. SOUTHARD, *Secretary of the Navy*

WASHINGTON, *June* 2, 1825.

SIR: The accompanying pamphlet, which was put to press shortly after the termination of the proceedings of the Court of Inquiry on the Faxardo affair, contains all the explanations I shall ever be able to make in justification of my conduct.

I never had, at any time, any doubts of the propriety of the course I pursued—nor have I now; and it will be the source of great regret to me, if, after a perusal of the pamphlet, further proceedings in the case should be thought necessary.

If it be thought that I have erred in judgment, the purity of my intentions, I presume, cannot be doubted.

I have the honour to be, with great respect, your obd't serv't,

D. PORTER.

Hon. SAMUEL L. SOUTHARD.

NAVY DEPARTMENT, 13*th June.*

SIR: Your letter, transmitting a pamphlet respecting the proceedings of the Court of Inquiry, and the transactions at Faxardo, &c. was received, and the copy, endorsed for the President, immediately delivered to him.

It is the cause of surprise, that you should have considered it proper, while your case and the report of the Court of Inquiry were

still under the consideration of the Executive, to make a publication relating thereto, and especially a publication in so many respects deficient and inaccurate.

I am, respectfully, &c. SAML. L. SOUTHARD.

Com. DAVID PORTER, *U. S. Navy.*

MERIDIAN HILL, *June 14th*, 1825.

SIR: I have received your letter of yesterday's date, acknowledging the receipt of a pamphlet published by me, respecting the proceedings of the Court of Inquiry, and transactions at Faxardo, &c. and expressing your surprise that I should have considered it proper, while my case and the report of the Court of Inquiry were still under consideration of the Executive, to make a publication relating thereto, and especially a publication in so many respects "deficient and inaccurate."

I beg leave to state to you that the publication alluded to was put to press, and nearly ready for distribution, before I received any intimation from you of an opinion on the part of the Executive that further proceedings in the case were deemed necessary; an intimation which occasioned to me great surprise; and it was only with the hope of removing from the mind of the Executive an idea of this necessity, which induced me to circulate it after being so notified, as you will perceive by the note accompanying the pamphlet sent you a few days after your notification, which, pardon me, sir, I did believe was intended for the sole purpose of stopping my publication, as I could find no other motive for it, nor have I yet been able to find any other, as I am to this day not arrested, as I was informed by you I should be.

If, by an intimation of the deficiencies and inaccuracies which my pamphlet contains, it is intended to convey the idea of a wilful misrepresentation on my part, I beg you to point out in what it consists.

The record of the proceedings, as published, are copied from the record of the Judge Advocate; and the documents, whether rejected or otherwise, *for* or *against me*, so far as I could possess myself of them, accompanying the publication; and I certainly have not omitted any *against* me that were admitted by the Court as testimony; to the contrary, I have inserted one of that character, which was rejected by the Court as unauthentic, to wit, the Porto Rico government publication.

There are one or two trifling typographical errors, the most important of which is the word *clothes* instead of *colours*, in the testimony of Mr. Platt, page 15, and I think an omission to italicise the words "fearful odds," in page 37, which surely can not be the inaccuracies and deficiencies alluded to, as the first error is calculated to operate against myself, and the other, if it really exists, is of no importance. There is also an unimportant letter from you to the Court, transmitting the rejected documents, which by a note in page 31, and the report of the Court, which by a remark in page 32, I acknowledge not to be in my possession. The first was refused to

me by the Judge Advocate; the latter, I am still ignorant of; but the publication of both I now respectfully invite.

The anonymous publication in yesterday's Journal, of the same date of your letter, and taken in connexion with the language of it, leaves no doubt of the source whence it originated. I, consequently, considering my relationship to the Department, feel restrained from making suitable comments thereon. It is, therefore, only left for me to express the hope that the promised period for rectifying the errors, and supplying the deficiencies, which are said to exist in the pamphlet, may soon arrive; and until it does, I hereby voluntarily pledge my "sacred honour," that none will appear in it, except those I have indicated, so far as I could, by every effort on my part, obtain a knowledge of the proceedings of the Court, and I have no doubt I have obtained them correctly.

If it is intended to intimate that the reasonings contained in my defence are fallacious, and present an improper view of the subject, I can only say, they are the expressions of my honest, unaided opinions and convictions, and that I should have delivered them before the Court, had I been allowed the opportunity of doing so. They are before the public; the public will Judge of their value; and I now more than ever feel the necessity of appealing to its decision. I am not impatient of it, and wait the convenience of the Department, in whatever measures it may think proper to adopt toward me.

I take the liberty to remind you that I am still ignorant of the opinion of the Court of Inquiry, on the charges of Messrs. Randall and Mountain, and to request it may be laid before the public, that it may be able to judge whether I am innocent or guilty of them.

If the Court has pronounced me innocent, I am entitled to all the benefits of their opinion; if I am guilty, I am unworthy of holding my commission, and should wish no longer to disgrace it.

I have the honour to be, your very obedient servant,

D. PORTER.

Hon. SAMUEL L. SOUTHARD.

(No. 15.)

VARIANCES, &c.

Pamphlet, p. 11, 7th line—"Into the matters aforesaid," original *matter*. 21 line—"And (it) is also empowered:" original, *it* omitted.

P. 13, 3d paragraph—in pamphlet—"Captain David Porter also appeared, and being asked whether he had any objection to offer against either of the members of the Court, replied that he had no specific objection to individuals, but he objected to the materials of which the Court was composed; and stated further, that he had some remarks to make on the subject, as well as on the precept; that he did not think the Court was legally formed. The oath," &c.

The original record reads—

Captain David Porter also appeared, and being asked whether he

had any objection to offer against either of the members of the Court, replied that he had no specific objection to urge, but that he had some remarks which he wished to submit to the consideration of the Court after it was organized, and previous to its proceeding to make the investigation for which it was convened. Whereupon the oath," &c.

P. 15, line 27—After the word breakfast, " about an hour after I finished my breakfast" I received, &c. : the words between inverted commas omitted. Line 38—*clothes* instead of *colours*.

P. 16, 10th line from bottom—*cofined* instead of *confined*.

P. 17, end of third line, *my* omitted.

P. 20, 7th line from bottom, after the word Court, *the paper was*, omitted in pamphlet.

P. 22, 3d line of the proceedings of Thursday—*receiving* instead of *perusing*. 2d line of last paragraph, (marked F.) not in original.

P. 23, first line, after paper, " it was accordingly read, annexed to the record, and marked F." omitted. 17th line from bottom, after the word *which*, the words " holds the highest commission which" omitted in pamphlet.

P. 26, 8th line from the bottom of text, the word *some* omitted before *resistance*.

P. 27, 9th line, the first word *then* not in original. 2d paragraph, *were* instead of *being*, and the sentence made to end at *men*, instead of going on through the paragraph.

P. 29, 18th line from bottom, the word *up* not in original.

P. 30, 2d paragraph—*half past ten* instead of *two*.

P. 31, the sentence " The Judge Advocate informed the Court that he should probably be in possession of more testimony to submit to-morrow, but had none to lay before the Court at this time." omitted before the adjournment till 12 o'clock, to-morrow, and the two sentences after that adjournment not in original.

In the proceedings of Saturday, 1st paragraph, the original reads —" present all the members of the Court, the Judge Advocate, and Captain Porter." 2d paragraph, the communication from the Secretary of the Navy, marked (G) not inserted in the pamphlet.

P. 32—the third paragraph not in the original. A note attached on the original record, at the end of the first paragraph, omitted. The 2d, 3d, 4th, and 5th paragraphs all vary from the original, and the Report of the Court is entirely omitted.

The communication from the Secretary of the Navy, not introduced into the original record, but annexed to the subsequent proceedings ; and the word *proposed*, at the end of the 4th paragraph, instead of *prepared*.

In the documents, given in evidence, the original record gives—

No. 1. Letter from Capt. Porter to Sec. of Navy, of Nov. 15, 1824.

No. 2. Same to same, January 1, 1825.

No. 3. Stephen Cabot to Com. Porter, Nov. 12, 1824.

No. 4. Bergeest and Ulhorn to same, Nov. 11, 1824.

No. 5. Charles T. Platt to same, Nov. 11, 1824.

No. 6. Sec. of Navy to same, February 1, 1823.

In the pamphlet, pp. 43, &c. the papers 3, 4, 5, are transposed, No. 6 wholly omitted, and one inserted as No. 6, which never was submitted to the Court in that investigation.

P. 34, 5th line from bottom, *were* instead of *was*.

P. 36, commencement of 6th paragraph, the words "I beg leave to state further that" omitted. Same paragraph, 3d line after *Court*, the original reads "and I should now waive all objections," &c. Same paragraph, 3d line from bottom, the word *us* not in the record.

P. 37, 3d line, the word *formed* omitted in the pamphlet, before *regulated*. 9th line of 2d paragraph, *the design* instead of *designed*. 9th and 8th lines from bottom of paper B—"considering the fearful odds I have to contend against," italicised in original.

P. 41, 3d and 4th lines of 3d paragraph—*to any subject* instead of *to the subjects*.

P. 42, 11th line of 2d paragraph—*a power* instead of *its power*.

(No. 16.)

In the case of Captain David Porter, now before the General Court Martial, at the Marine Barracks at Washington, it is hereby agreed by and between the Judge Advocate and the said Captain D. Porter, that the following statement of facts is true, and that the attendance of witnesses to prove the same, is dispensed with on each side.

Captain Porter did, on the 28th day of May, 1824, write a letter to the Secretary of the Navy, a true copy of which is hereunto annexed, and did despatch the same, from the place where it purports to have been written, by Lieut. Legare, of the United States' schooner Wild Cat, to deliver the same to the Secretary of the Navy.

It is agreed, also, that Lieut. Legare sailed in the United States' schooner Wild Cat, from Matanzas, for Washington, on the 29th day of May, 1824, with the said letter of the 28th, and that Captain Porter sailed from the same place, Matanzas, on the 15th day of June following.

Lieut. Legare did arrive at the City of Washington, and did deliver the same to the Secretary of the Navy, at his house, in the City of Washington, on the evening of June 24th, 1824.

Captain Porter arrived in the City of Washington in the Sea Gull, some time on the same 24th day of June, some hours previous to the arrival of Lieut. Legare, having passed him in the river, on his way up. The arrival of Captain Porter was announced to the Secretary of the Navy, one or two hours before the arrival of Lieut. Legare, and the delivery of the said letter, at the house of the Secretary, who thereupon expressed great surprize at receiving the intelligence, and stated it to have been wholly unexpected by him.

(No. 17.)

The Secretary of the Navy requests Messrs. Gales and Seaton to inform him, from whom they received the correspondence which was published in the "Daily National Intelligencer" of the 30th of March last, purporting to be correspondence between the Secretary of the Navy and Commodore David Porter.

NAVY DEPARTMENT, 15*th April*, 1825.

(No. 18.)

The Secretary of the Navy presents his respects to Messrs. Gales and Seaton, and informs them that his object in writing the Note, to which theirs of the 16th is an answer, was to discover, whether the correspondence referred to, was communicated by an officer of the Navy, and if so, by what officer.

The Secretary of the Navy believes that it was improper in any officer, under the circumstances of the case, to communicate that correspondence to the public. He would, therefore, be gratified to learn, who the officer is, if Messrs. Gales and Seaton feel perfectly at liberty to give the information. He wishes not, however, to create the slightest difficulty between them and their correspondent, or to obtain from them what it would be in the least improper for them to communicate.

NAVY DEPARTMENT, *April* 18*th*, 1825.

(No. 19.)

Copies of Letters from Gales and Seaton to the Secretary of the Navy.

Gales and Seaton have the pleasure to acknowledge the receipt of the Note of the Hon. Secretary of the Navy, requesting them "to inform him from whom they received the correspondence which "was published in the Daily National Intelligencer of the 30th of "March last, purporting to be a correspondence between the Se-"cretary of the Navy and Commodore D. Porter." G. and S. have the honour to state, in reply to this Note, that the copy of the correspondence was received from an officer of the Navy. If it be not genuine, or be incorrect, the name of the communicator will be instantly disclosed to the Secretary of the Navy.

OFFICE OF THE NATIONAL INTELLIGENCER, *April* 16*th*, 1825.

OFFICE OF THE NAT. INTELLIGENCER, *April* 19*th*, 1825.

Gales and Seaton present their respects to the Hon. Secretary of the Navy, acknowledging the receipt of his Note of the date of yesterday. In seeking for their readers, from sources accessible to them, information of an authentic nature concerning a matter already spread before the public by official documents, they were not aware that they should, for themselves, or for the gentleman who kindly furnished the copies of the papers referred to, incur the disapprobation of the Department.

The authenticity of those papers not being questioned, and the name of the officer being desired, it would appear, only to disapprove of his conduct, the Editors, being unwilling to compromit any one for a service rendered to them, if not the public, take leave most respectfully to decline a compliance with the request of the Hon. Secretary, assuring him at the same time, with great sincerity, that there is not an officer in this government to whose known wishes it would give them greater pleasure at any time to accede.

P. S. It can hardly be necessary to state that, in coming to the conclusion above stated, G. and S. have not held any consultation with their correspondent who furnished the papers in question.

(No. 20.)

Commodore PORTER.—We have been informed that, though in point of fact we were not in error in our note appended to remarks taken from the Cincinnati Gazette, and inserted in ours of the 28th inst.. yet, notwithstanding that, Commodore Porter no longer holds the command of the West India squadron. We have, therefore, with a view of it being correct and preventing wrong impressions, sought, and obtained, copies of the correspondence on the subject of the recall of Commodore Porter, which we can see no impropriety in publishing at this time, as the letters have no bearing on the *merits* of the question to be hereafter decided, as to the correctness or incorrectness of his conduct in the Faxardo affair.

It has been publicly and officially announced by the late President of the United States, to Congress, that Commodore Porter has, in consequence of that affair, been recalled, and it is proper that the nation should know the true position of the case. The executive, no doubt, conceived itself to be right in recalling him, and from the confident tone of the Commodore's reply, there can be as little doubt that he thinks himself right in what he has done. If he can justify himself, no evil can result to him, from what has taken place: if he cannot, he can have no objection to submitting to the punishment he has volunteered to suffer.

The "instructions" to the Commodore have been communicated to Congress by the Navy Department, and the Public can form some opinion how far he can sustain himself by them, It remains to be seen how far he can justify himself by the "laws of nature and of nations," and by highly approved precedent.

NAVY DEPARTMENT, *27th December*, 1825.

SIR: Your letter of the 15th November last, relating to the extraordinary transactions at Faxardo, in the Island of Porto Rico, on the —— of that month, has been received and considered.

It is not intended, at this time, to pronounce an opinion on the propriety of those transactions on your part, but their importance demands for them a full investigation, and you will proceed, without unnecessary delay, to this place, to furnish such explanations as may be required of every thing connected with their cause, origin,

progress, and termination. For that purpose, you will bring with you those officers whose testimony is necessary, particularly Lieut. Platt, and such written evidence as you may suppose useful.

You will return in such convenient vessel as may be best spared from the squadron, and on your leaving the station, you will deliver the command to Captain Warrington, with all such papers, instructions, and information, as may be useful to enable him in the most effectual manner to accomplish all the objects for which the vessels now under your command were placed there.

I am, very respectfully, &c. SAML. L. SOUTHARD.

Com. DAVID PORTER,
Commanding U. S. Naval forces, West Indies, Gulf of Mexico, &c.

U. S. SHIP JOHN ADAMS, *Thompson's Island, Jan.* 30, 1825.

SIR: I have the honour to acknowledge the receipt of your orders of the 27th ult. informing me of your reception of mine of the 15th of November, relating to what you have been pleased to term "the extraordinary transactions at Faxardo," and recalling me from my command for a full investigation of my conduct in that affair.

Agreeably to your orders, I shall leave this place for Washington "without unnecessary delay," and have taken measures to obtain all the testimony necessary, and such written evidence as I suppose useful, and on my arrival in the United States, shall hold myself ready to justify my conduct in every particular, not only by the laws of nations and of nature, and by highly approved precedent, but, if necessary, by the orders of the Secretary of the Navy.

To use the emphatic language of Mr. Adams, "by all the laws "of neutrality and war, as well as of prudence and humanity," I was warranted in chastising and intimidating the authorities of a place who had not only become the allies and protectors of outlaws and pirates, but our active enemies, by the imprisonment and forcible detention of an American officer, while in the performance of his duties. "There will need," (continues Mr. Adams,) "no ci-"tation from printed treatises on international law, to prove the cor-"rectness of this principle. It is engraved in adamant on the com-"mon sense of mankind. No writer upon the law of nations ever "pretended to contradict it; none of any reputation or authority "ever omitted to insert it.

I am willing, sir, to submit my conduct in this affair to the strictest investigation, and, if I cannot fully justify it, I shall cheerfully submit to the severest punishment that can be inflicted. But, if it shall appear that the motives which influenced me were founded in patriotism; that the necessity for my conduct really existed, and that "my vindication is written in every page of the law of nations, as well as the first law of nature, self defence," I shall then hope that atonement will be made for this forcible withdrawal, for an alleged offence from my command, by restoring me to my former station, and allowing me to retire from it in a manner more honourable to myself and country, and less injurious to my feelings and character.

This, sir, will be an act of justice that I hope will not be denied to me. I have the honour to be, with great respect, your obedient serv't, D. PORTER.

Hon. SAMUEL L. SOUTHARD, *Secretary of the Navy.*

Extract of a letter from Com. Porter to the Hon. Secretary of the Navy, dated WASHINGTON, *March* 16, 1825.

"Officers continue to make to me their reports, and to request of me orders. Not knowing whether the Department still consider me in command of the West India squadron, I have been at a loss how to act. Will you be pleased to instruct me on the subject.

"I have the honour to be, with great respect, your obd't serv't, "D. PORTER.

"Hon. SAML. L. SOUTHARD."

Extract of a letter from Hon. Sam. L. Southard to Com. Porter, dated NAVY DEPARTMENT, *16th March*, 1825.

"It was the intention of the Department, in ordering Captain Warrington to the West Indies, to relieve you from the command of the squadron there."

"I am, respectfully, &c. "SAML. L. SOUTHARD.

"Com. DAVID PORTER, *U. S. Navy—Present.*"

(No. 21.)

GEORGETOWN, *May* 21, 1825.

SIR: After mature reflection, I regret that it is out of my power to comply with the request made on your behalf, for a part of the record of the proceedings of the Court of Inquiry, in relation to the Faxardo affair, which your clerk accidentally omitted to copy. So long as you participated in the proceedings of the Court, and the investigation remained uncompleted, I considered myself as authorized to communicate to you the proceedings of the Court. The investigation is, however, now completed—the record has been transmitted to the Department, and is beyond my controul. My impression is that I am not at liberty to communicate my private notes of the proceedings of the Court under these circumstances, particularly for the purpose of being copied without the knowledge and consent of the Government. I presume, however, that on an application to the Department, a more correct transcript of the proceedings of the Court will be furnished you, than it is in my power to afford. Very respectfully, your obedient servant,

RICH'D S. COXE.

Commodore PORTER.

(No. 22)

It is admitted that Mr. Simpson, representing himself as acting for Capt. Porter, called on me at my house, and requested to be furnished with a certain part of the evidence given before the Court of Inquiry, alleging that a chasm existed. and shewing me a memoran-

dum in the hand writing of Captain Porter, by which it appeared that the chasm existed in the testimony of Captain Dallas, which is now published in the pamphlet, beginning at p. 25, and ending, according to my recollection, at the end of the first paragraph, on p. 27. Doubting the propriety at that time of furnishing my private notes; after consulting the members of the Court of Inquiry, I sent the letter of the 21st May, as my answer to this application. On the same day on which it was sent, Lieut. Farragut came into the room where the Court of Inquiry was engaged in the second subject of investigation, and mentioned to me that Com. Porter wished to have the letter from the Secretary of the Navy to the Court, referred to in the proceedings of the Court of Saturday, May 7th. I replied to him, that the original was annexed to the record, and transmitted to the Department, nearly a fortnight since, and that I had no copy; it was therefore impossible for me to comply with the application: I handed to Mr. Farragut, at the time of this conversation, (whether before or after I cannot positively say, but I think immediately after) the letter which was then written, and was I believe lying on the table sealed when he came in.

The foregoing paper was handed to Capt. Porter by the Judge Advocate, July 25th, and returned by him on the 26th.

(No. 22.)

WASHINGTON, *July* 27, 1825.

SIR: In answer to a question put to me yesterday by the Court Martial, I declined giving the name of the person who was our authority for a certain paragraph contained in the Intelligencer May 5th. My unwillingness to answer the question directly, proceeded not from a belief that the gentleman concerned would feel himself aggrieved by a disclosure of his name, but from a regard for a principle which I deem it important to observe, and a respect for which dictated my answer to a similar question propounded to me by the Court the day preceding, in reference to another publication in the Intelligencer. It is due to the gentleman who communicated to us the statement embraced in the paragraph of May 5th, to acquaint you now with the fact, that having heard of my refusal to give up his name, he immediately addressed to me a note, desiring unequivocally that I should not be restrained by any consideration of delicacy towards him, from giving his name to the Court, as it was his intention, in marking his note of May 5th "*private*," only to withhold his name from the newspaper.

This statement is due to the frankness of the gentleman making the communication, and you will have the goodness to place it before the Court, although I do not, by the permission which he gives, feel myself absolved from the obligation which regulated my answer yesterday. Very respectfully, your obedient servant,

W. W. SEATON.

RICHARD S. COXE, *Esq. Judge Advocate Navy Court Martial.*

(No. 23.)

OAKHILL, *July* 25, 1825.

SIR: I have answered the several interrogatories on the part of the U. States, and of Com. Porter, in the trial now depending before the Court Martial at Washington, which answer I now enclose to you, with the documents received from you by the messenger. The answer has been sworn to before a magistrate of the county.

I am, sir, with respect, your very obedient servant,

JAMES MONROE.

To RICH'D S. COXE, Esq. *Judge Advocate.*

(No. 24.)

Interrogatories to be propounded to the Honourable James Monroe, in the case of Captain David Porter, now in the course of trial, before a General Naval Court Martial, at the City of Washington.

INTERROGATORY 1ST. Are the accompanying papers, numbered one and two, purporting to be from Captain David Porter to you, original letters received by you from him, and when were they respectively received?

INT'Y 2d. Is the paper numbered 3, a copy of a letter written by you to the said Captain David Porter, in reply to his letter, No. 1, and was the same transmitted to him? Have you any, and what reasons for believing that the same was received by him?

INT'Y 3D. Has it been a usual or unusual thing for a Captain in the Navy of the United States, to solicit, by letter, permission to pay his respects to you in person? If the latter, are you acquainted with the reasons or causes which induced such application on the present occasion? be pleased to state such reasons fully, and in detail.

INT'Y 4TH. Is it true, as is stated in your letter No. 3, that the orders which were given to Capt. Porter, relating to his command in the West Indies, and particularly the orders to Capt. Porter, in October last, to return to his station, and the order of December last, recalling him, were given at your instance, and under your inspection; and have you any reasons for knowing or believing that this fact was known to Captain Porter?

INT'Y 5TH. Have you ever seen any reason to believe, or to disbelieve, that the Secretary of the Navy, in his official correspondence with Capt. Porter, indicated any hostility to Capt. Porter, or was influenced by any feeling of unkindness? State fully such facts and circumstances within your knowledge, as are calculated to illustrate this question. RICHARD S. COXE, *Judge Advocate.*

1. Please to say whether, in the latter part of June, or the beginning of July, 1824, (or about that time,) you sent a message by Com. Chauncey to me, to say that I must not visit you until after I had seen the Secretary of the Navy, then absent; and until you had received some explanation as to the cause of my return from the West Indies?

2. Were you not induced so to interdict personal communication with me, in consequence of having received the impression that I had left the West India station, without having apprised the Navy Department of there being a necessity for it?

3. Was the letter from the Secretary of the Navy to me of October 21, 1824, (a certified copy whereof is annexed,) containing a peremptory order for me to proceed to the West Indies, in the John Adams, contrary to my express and known wish and entreaty, and explaining the reasons for giving such order, written or dictated by yourself, in form or substance; if not, was it shewn to you, and by whom, before it was despatched to me? Please state, particularly, by whom the original draught of this letter was prepared.

4. Was not the impression you had received of my having departed from the strict line of my duty, in quitting the West India station, the operative inducement, or did it weigh any thing with you, in either writing or causing to be written, or sanctioning after being written, such peremptory order to go out in the John Adams, instead of waiting a few weeks for the Constellation, as I had requested?

5. Was it not represented to you, and have you not expressed yourself as having received the impression, that I had only vented, upon the authorities and people of Faxardo, my own angry feelings and personal pique, at having been ordered out in the John Adams, in the manner I was; or something to that effect? Or, was any such imputation addressed by any body to you, or uttered in your presence, and by whom?

6. In consequence of the interdict to my personal intercourse with you, as above suggested, in my first interrogatory, did I not forbear to call on you, even on the 4th of July, and continually, until afterwards repeatedly invited to do so, by special messages from you?

7. When and where, and upon whose application, did you communicate and deliver to the Secretary of the Navy, the said letters of the 10th and 12th of March last, annexed to the Judge Advocate's interrogatories? If they were so delivered, on a *written* application, please annex it to your answer; if upon a personal one, please to say from whom, and when and where?

8. Was that correspondence so communicated with an intention that it should be deposited among the Archives of the Navy Department, and when was it so deposited?

9. Do you know that, at the time I wrote you the said letter of the 26th October, 1821, mentioned in yours of the 12th of March last, I had been made acquainted with the fact of your having either originally draughted, or dictated, or directly approved the said letter from the Secretary of the Navy, of the 21st of the same month?

Signed under the protest filed and reserved.

D. PORTER.

WASHINGTON, *July 22d*, 1825.

(No. 25.)

Answers of James Monroe to the interrogatories propounded to him in the case of Commodore Porter, in the trial now depending before a general Court Martial, at the City of Washington.

1st. To the first interrogatory, on the part of the United States, I answer, that the letter or paper numbered one, is according to my recollection, a correct copy of a letter from Commodore Porter to me. I return the paper, with a note to this effect on it.

The letter numbered 2, is an original letter from Commodore Porter to me. They were both received about the time of their respective dates.

2d. Answer to the second: the paper numbered three, is a copy of my letter to him, of the 12th of March last; and, as I believe, a correct one.

3d. Answer to the third. It was not usual for a captain, or any officer in the navy or army, to solicit an interview with me by letter. They always called when they had business; and generally on their arrival in town, or departure from it; and I always received them without form, when I happened to be free from other engagements.

The interview in the instance stated, was asked, as I presume, in consequence of my having recalled him from the command in the West Indies, on account of the attack made by him on Faxardo, in the Island of Porto Rico. That recall implied a doubt of the propriety of his conduct in making the attack, which had never been removed by any intimation from me, either by inviting him to see me, or otherwise. His return, occurring so short a time before I left office, I deemed it improper to take any step, in regard to the attack, while I remained in office. I thought it more just and candid towards Commodore Porter, to leave the affair to be acted on by my successor, especially as the measure, in connection with others, relating to him, might be thought to involve, in some degree, the propriety of my own conduct.

4th. Answer to the fourth. The orders relating to the command of Commodore Porter in the West Indies, from the commencement to its termination, including of course that of October last, directing him to return to his station; and that of December, recalling him from it, were given at my instance, and under my immediate inspection. The command was deemed a very important one, requiring great discretion in its execution. The object was the suppression of piracy; but, in stationing a naval force there, I knew that it would attract the attention, not of Spain alone, on whom it more immediately bore, but of the new governments, our neighbours, to the south, and in certain respects of several of the powers of Europe, who were neutral in the contest, between the belligerent parties. The question whether free ships should make free goods, the extent of contraband of war, the transportation of specie, and other questions of the kind, necessarily occurred, when that force

was detached to that station, for the special object designated. They had been frequently under the consideration of the administration before, and were brought more pointedly before it. on that occasion. My impression is, for I have not a copy of the instructions then given, that they were drawn with great care, and dictated by a desire, rather to err, if error should be committed on the side of moderation, than to risk a variance with any of the parties concerned. These questions were to be settled by treaties, and especially with the new governments, and which required time. My intention was, that the commander of the squadron, and all acting under him, should take nothing on themselves, but confine themselves to the duty specially injoined on them, and obey strictly their orders.

When informed in June last, that Commodore Porter had left his station, and returned to the United States, I asked the Secretary of the Navy, by what authority he had done it? had leave been given him? The reply was, none had been. I then asked, did his original instructions authorize him to come home when he thought fit? I do not recollect the precise answer, or that any such was given to me, but my impression was, that they did not. The Secretary had made arrangements for his departure from town, on a visit to his family, and I saw no reason why he should delay it, on account of the arrival of Commodore Porter. Nothing material, more, that I recollect, passed between us. I did not not see him again before his departure. I reflected much on the subject, and decided, on the next morning, the course which I should pursue, in regard to Commodore Porter. I arose early, and sent for Commodore Rodgers, and was informed that he had gone to Norfolk: I then sent for Commodore Chauncey, and after expressing my deep regret, that Commodore Porter should have left his station without leave, which was the only question I made in the case, I told him that the subject merited inquiry, and that as the Secretary had left town, I could not see him 'till the Secretary returned, nor until I should, on further, and more mature consideration, decide what course should be taken in this case. I requested him to see Commodore Porter without delay, and to prevent his calling on me in the interim; but to do it in the most delicate manner that he could, for having high respect for his services and merit, and a personal regard for him, I wished to take no step which should wound his feelings, which I should not be compelled to do, from a high sense of duty to my country, and an earnest desire to support the credit of the Navy. An interview between Commodore Chauncey and Commodore Porter took place, whereby an interview between Commodore Porter and me, was prevented.

In conversations with Commodore Rodgers, after his return, and with Commodore Chauncey, who made friendly explanations, in regard to Commodore Porter's conduct and views, and in consideration, also, of his having been wounded in the late war, and an intimation that he then suffered from the wound, I thought myself justifiable, especially as I had given a decisive proof of the sentiments

which I entertained, of his return from his station without leave, to pass the affair over without further notice, and of which I requested them to inform him. He accordingly called afterwards, and was received with kindness. My desire was, that he should return soon, to his command; but I do not recollect, that any thing was said to that effect by me. I presumed, that what had already passed, would be a sufficient proof of that desire. His remaining however, so long, in the country, gave me concern, especially as we were repeatedly advised that piracy had revived, and was doing much injury to our commerce. I however delayed noticing it for sometime, under feelings of the kind stated, and in expectation also, which I continually indulged, that he would soon depart. I at length requested the Secretary to instruct him to resume his station without delay, and to do it in the John Adams, which the Secretary did. To this, I recollect that the Commodore gave a reply, which was deemed highly objectionable, and respecting which, I had great doubt as to the part, regarding the office I then held, which I ought to take. On great consideration, however, I decided to order him immediately to his post, with intention, that being there, and in rule, to decide afterwards, what it would be proper to do in the affair. In taking this course, I yielded to feelings that were favourable to him, and in the hope that his conduct at his station, and towards the government, would be such, as to permit the whole affair to be adjusted, or rather to be passed over without injury to the service.

According to my recollection, I drew a sketch of the order in question, or so much of it, as to give a distinct idea of what I intended, and certain I am, that I saw the letter, that of the 21st of October last, before it was sent.

The decision was soon taken after the affair of Faxardo, to recall Commodore Porter, that being present, he might explain the circumstances, and reason of his conduct. I saw the order and approved it. I do not know that Commodore Porter was acquainted with the fact, further that in speaking of the subject to friends afterwards, I frequently mentioned it, and that I intended to include that with the other orders; and particularly the order of October preceding, in the letter which I wrote to him, after I retired from office, in reply to his already noticed.

5th. I never saw any proof of unkind feelings in the Secretary of the Navy towards Commodore Porter, nor have I any reason to believe, that he ever acted under the influence of such. I saw, on the contrary, proof of a different disposition, in more instances than one. Having, from the considerations above stated, been very attentive to the conduct of this squadron, from the beginning, and indeed to the others, in other seas, and prescribed the measures to be taken, and orders to be given, after due consideration and consultation with those on whom I had a right to call, I was anxious that my own responsibility, in its full extent, should be known in every instance, and especially to those concerned, before I left of-

fice; and it was on that principle, that I expressed myself so fully to that effect, in my letter to Commodore Porter, in March last. It was on that principle, that I deemed it proper to deposit in the Department, before I left town, the evidence of that correspondence; consisting, according to my recollection, of his letter to me, and a copy of my reply.

1st. To the first interrogatory proposed on the part of Com. Porter. I answer, that I did authorize Com. Chauncey to see him, and to prevent his calling on me, at the time stated, and for the reasons that are particularly and fully explained, in my answer to the 4th interrogatory, on the part of the U. States.

2d. I took the step, for the reasons, stated, in reply to the 4th interrogatory, above referred to.

3d. To this interrogatory, an answer has also been already given in reply to the 4th interrogatory, on the part of the U. States.

4th. To this interrogatory, an answer has likewise been given, in reply to the 4th, referred to above. I have thought it better to give a full and connected explanation of the measures taken in the instances in question, and of the considerations on which I acted, in reply to one interrogatory, which embraced several, than in detail, in reply to each.

5th. When the account of the attack on Faxardo was received, much remark was made on it, and, with others, that of the kind suggested. I am inclined to think, that I made it myself; but, in that case, to some friends of Com. Porter's, and rather in a confidential way, than otherwise, tho' certainly under no injunction to that effect. I probably mentioned it to others, in the same spirit, and particularly to the members of the administration, or to some of them. The answers already given to the other interrogatories, and particularly to the 4th, on the part of the U. States, and the documents referred to in them, will explain the cause, to which such an idea is to be attributed, which, however, was merely incidental and casual. I do not recollect receiving any letter suggesting that idea, nor do I believe that I did, tho' it is possible that I might.

6th. To this interrogatory, an answer has already been given.

7th. To this, also, an answer has been given.

8th. The correspondence was deposited in the Navy Department, as a document relating to my public conduct, in an occurrence interesting to others, as well as to the public, to be used only for public purposes, should such present themselves, to make the use thereof proper and necessary. I readily admit, that Com. Porter did not ask the interview for any purpose other than that stated in his reply to my letter; but still I thought it more consistent with the part I had acted, in that affair, and with what I owed to him, as well as to others, to decline the interview, to state to him the part I had acted in the concerns in question, and to deposit the evidence thereof, for the purpose stated, in the Department, while I was at Washington.

9th. I had never seen Com. Porter, after the date of his letter

October 26th, nor made to him any communication by letter, erefore do not know that he was apprised of the particular t which I had taken, and of the part I had acted, in regard to er from the Secretary of the Navy to him, of October last, re- to in this interrogatory The subject being delicate, and in- g in many views, I never spoke of it but in a guarded man- less to friends, and among them, some whom I knew to be his also, and with a view to produce a good effect, in relation to rests and parties above referred to.

JAMES MONROE.

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a, Loudon County, sct.

day, James Monroe personally appeared before me, John a Magistrate of the said County, and made oath that the facts n his several answers contained in this sheet marked (3) and ier sheets, one of which is marked (1.) and the other (2,) e to the best of his knowledge and belief.

n under my hand and seal this 25th day of July, in the year

J. BAYLY, [Seal.]

No. 1. (No. 26.)

lain Porter presents his respects to Mr. Monroe and asks (if ble) when he may have the honour to pay his respects to

s request would have been made at an early period, but for ent changes in the Government, which have no doubt fully ed the Executive, and but for the hope entertained by Cap- rter, that, ere this, he would have been afforded an opportu- f explaining his conduct, and be enabled to present himself , Monroe, free from censure. The desire of paying his re- and taking his leave of his late Chief Magistrate, and as he l reason to believe, friend, has overcome all other considera-

ch 10th, 1825.

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rtify the foregoing to be a true copy from the original in this tment. CHAS. HAY, *Chief Clerk.*

T DEPARTMENT, *July 6*, 1825.

s is the letter referred to in my answer to the first interrogatory on the the U. States.] JAMES MONROE.

(No. 27.)

WASHINGTON, *12th March*, 1825.

: I received your Note of the 10th in the spirit in which it written, that of kind feeling for one, under whom you have for the last eight years, and who has now retired to private I should most willingly meet you, and receive the explana- which you are disposed to give, but for reasons which I will ly communicate to you.

All the orders which were given you, relative to your command in the West Indies, were given by the Secretary of the Navy, at my instance, and under my inspection. They were dictated by a sense of duty to my country, and with no unkind feelings towards you. Your letter of the 26th of October, 1824, to me, from New Castle, was received shortly after its date, and to which I deemed it improper to give any reply. It has become the duty of my successor, to examine, and decide, on that important subject in all its parts, in the manner which shall appear to him most proper. In this stage, although retired to private life, I do not think that I ought to interfere, or to receive any explanations, relative to transactions, in which our country is interested, over which, another has control, and in which I have no concern.

Holding in high estimation your gallantry, and patriotism, I beg you to be assured of my good wishes for your welfare, and that of your family, (Signed) JAMES MONROE.

(No. 28.)

MERIDIAN HILL, 12th *March*, 1825.

RESPECTED SIR: I have received your highly esteemed letter of this day, and feel much gratified at the friendly sentiments and assurances it expresses. I can only beg leave to assure you, that you will carry with you in your retirement, the best wishes of a grateful and affectionate heart.

I regret to observe, that you are under wrong impressions as to the object of my Note. Nothing was further from my wishes or intentions, than to make any explanations, or touch on any subject of an unpleasant nature, to you. I should have made the request to see you at an earlier period, but for the most scrupulous delicacy, not wishing it for an instant to be believed by any one, that I sought protection, or to give the slightest grounds for such belief. I feel confident of the correctness of my conduct throughout, and am satisfied that the Executive will approve it, when I shall have an opportunity of explaining.

My visit to you was intended as one of pure personal respect, and unconnected with any considerations of a selfish nature, only so far as my feelings were concerned; I was not certain whether it would be acceptable, and desirous of guarding against any thing disagreeable to you, I thought it advisable to address you a Note.

The circumstance which caused me to address you from New Castle, I regret most sincerely and I do assure you, that it would give me more pleasure to learn that I was in error, than to believe that my impressions at the time of writing, were correct. The serious charge brought against me, and the consequences of it, I did not think I merited. The very circumstance of claiming your protection, was of itself an evidence that I did not think you actuated by any unfriendly feelings towards me, but I did think you was

under wrong impressions, which caused me to inclose you the copy of a letter, which I was charged with having neglected to write.

I hope, at some future period, I shall have an opportunity to assure you, in person, of the high respect and consideration with which I have ever held your exalted character and virtues.

With sentiments of the utmost respect, your obedient servant,

D. PORTER.

Mr. Monroe.

I certify the foregoing to be true copies from the original on file in this Department. CHAS. HAY, *Chief Clerk.*

Navy Department, *6th July*, 1825.

(No. 29.)

Navy Department, *21st October*, 1824.

Sir: Your letter dated the 19th inst. has created surprise. Looking to the good of the service, every attention has been shewn to you which your station required, and which could be dictated by a just estimation of your public service.

The command which was given to you, at your earnest request, on the first of February, 1823. was a highly important one. Your conduct in discharge of its duties, satisfactory to the President. The interval since you left that station, has been interesting, and it is understood that piracy has revived, and is making extensive ravages on our commerce.

Communications have been made to you, to apprise you fully of this fact. The presence, there, of an officer of rank and experience is, of course, necessary. The size of the vessel in which he sails is matter of small moment, and must depend upon circumstances. You are aware of the intention to send the Constellation to that station as soon as she can conveniently be prepared.

Your return to this place without permission, or apprizing the Department of a necessity for it, was unexpected; but no complaint has heretofore been made of your remaining here, because it was believed that your health was not perfectly good, and your shoulder lame and painful.

But this obstacle has been removed, and had you earlier apprized the Department, that you considered this place within the limits of your station, that the command has ceased to be pleasant to you, and that you were apprehensive of the climate, you would have been relieved, and a successor appointed. But having failed to give this information, and the presence of a commander on the station being now indispensable, you will proceed to it.

When it is convenient to the Department, your wish to be relieved shall be gratified. Upon a reperusal of your orders, you will find that no intimation is given, that Thompson's Island alone is to be considered as the station, and that you are to remain stationary there, nor that you are to lead in person every expedition fitted out from it.

I purposely abstain from comment upon certain matters in your letter. You will hereafter hear from the Department on this subject

I am, very respectfully, &c

(Signed) SAML. L. SOUTHARD.

Com. DAVID PORTER, *Comd'g U. S. Naval forces, West Indies, &c. present.*

I certify that the foregoing is a true copy from the original on file in this Department. CHAS. HAY, *Chief Clerk.*

NAVY DEPARTMENT, *July* 6, 1825.

(No. 30.)

NAVY DEPARTMENT, 19*th August*, 1823.

SIR: In the last paragraph of your letter, dated the 1st inst. transmitted by the U. S. Schooner Ferret, you mention that circumstances will, towards the fall, render your return to the United States for a short period necessary; you will please to avail yourself of the time most suitable for this purpose, and return to the United States in the manner most convenient to yourself, and least prejudicial to the interests of the service. I am, very respectfully, &c.

(Signed,) SMITH THOMPSON.

Com. DAVID PORTER, *Comm'g U. S. Naval Forces, West Indies, &c.*

I certify the above to be a true copy from the records of this Department. CHAS. HAY, *Chief Clerk.*

NAVY DEPARTMENT, 29*th July*, 1825.

(No. 31.)

NAVY DEPARTMENT, 29*th September*, 1823.

MY DEAR SIR: This letter will be handed to you by Commodore Rodgers. The object of his visit to Thompson's Island, will be fully communicated to you by him. The various, and in many points, contradictory reports respecting the condition of the station, the uncertainty whether you still live, the deepest anxiety for your safety, the desire to furnish speedy relief, and acquire full information respecting the health of the station, and its fitness as a rendezvous during the sickly season, and the fear that, debilitated as you are, you could not secure that information for us, have prompted the wish that Com. Rodgers should undertake the expedition, and have induced him cheerfully and voluntarily to enter on its performance.

He will find united in it the sacred offices of private friendship and public duty. A report that your health is restored, will give to me individually, and to the nation at large, most sincere gratification. I am, very respectfully, &c.

SAM'L. L. SOUTHARD.

Capt. DAVID PORTER, *Comm'd'g U. S. Naval Forces, West I. Gulf of Mexico.*

I certify the above to be a true copy from the records of this Department CHAS. HAY, *Chief Clerk.*

NAVY DEPARTMENT, 29*th July*, 1825.

(No. 32.)

Extract of a letter from the Hon. Secretary of the Navy, dated Sept. 30th, 1823.

"The uncertainty and anxiety which prevail as to your own health, and the health of the squadron, and a desire to furnish the best assistance, and procure information which may be a safe guide on all future occasions, are the inducements to this measure.

The orders of Commodore Rodgers will be communicated to you on his arrival, and you will render all the aid which your health will permit, in accomplishing the object of his visit. It is intended that you shall remain in command of the station, or return home as your health may require, and your inclination prompt. Commodore Rodgers will return immediately after he shall have accomplished the object of his visit.

(No. 33.)

Copy of a letter from Com. Isaac Chauncey, acting for the Secretary of the Navy, to Com. Porter, dated 28th Oct. 1823.

NAVY DEPARTMENT, *28th October*, 1823.

SIR: Your letter of the 27th inst. has been received. On your recovery from a dangerous illness, produced by great exposure, and much suffering, you will be pleased, sir, to accept my sincere congratulations.

In conducting the movements of the squadron, intrusted to your charge, you have displayed that intelligence, promptitude and vigour, which, effectually arresting the depredations of the freebooters, have afforded security to our trade, and justly entitle you to the unqualified approbation of this Department, and to the thanks of your country.

The conduct of the officers and men under your command has been such as might have been expected, from the example of their Chief; and you will be pleased, sir, to assure them of the consideration in which their services are held, and the high sense entertained of their devotion to a most arduous and dangerous service.

The want of medical aid, of which you so justly complain, will claim the early and special attention of this Department.

If the state of your health will permit, you will take upon yourself the general superintending direction of the equipment of the vessels of your squadron, now at this Yard, and at Norfolk. Let their Commanders report to you their wants, that you may make them known to the Board of Navy Commissioners, who will cause every requisite supply to be furnished.

I am, very respectfully, &c.

For the Secretary of the Navy—

(Signed) I. CHAUNCEY.

DAVID PORTER, Esq. *Commanding a Squadron of Ships and Vessels stationed in the West Indies and Gulf of Mexico.*

I certify the above to be a true copy from the records of this Department. CHAS. HAY, *Chief Clerk.*

NAVY DEPARTMENT, *29th July*, 1825.

(No. 34.)

Extract of a letter from Commodore Porter to the Hon'ble Secretary of the Navy, dated Nov. 19th, 1823.

"Should the gradual withdrawal of the small vessels take place, I beg leave to suggest that a frigate, in addition to the two sloops of war, now attached to the squadron, is due to the character of our service, to the respectability of our flag in that quarter of the world, and would, by the convenience she would afford to our open boats, in the pursuit of pirates, offer the most certain means of keeping them in check."

(No. 35.)

Extract of a letter of Instructions from the Hon'ble Secretary of the Navy, dated December, 1823.

"It is the intention of the Department to increase the force under your command, as soon as it can be effected: to this end, the frigate Congress will, after her arrival in the United States, be ordered to join you; and, in the course of the spring. one or more sloops of war will be added to those already with you."

(No. 36.) (Copy.)

NAVY DEPARTMENT, *May 17th*, 1824.

SIR: Congress has not, until within a few days, passed an appropriation law for the current year. This will account to you for one or two of the drafts of Purser Thornton not having been honoured, and for the delay in preparing the vessel to join you. It was impossible without funds, to fit out the Hornet or the Porpoise, and to prepare a larger vessel. There will be now as much activity as possible, but it is feared one cannot be prepared in time to reach you before the sickly season commences. It shall however be done if possible.

Upon a call by Resolution, the proceedings of the Court Martial which tried Lieutenant Kennon have been sent to Congress, and they will be published in a few days.

I am, very respectfully, &c.

(Signed) SAML. L. SOUTHARD.

Com. DAVID PORTER, *Thompson's Island.*

(No. 37.)

SEA GULL, *Matanzas, 28th May*, 1824.

SIR: I regret to be under the necessity of informing you that the fever has made its appearance on the Island, and that the inability of the acting surgeon's mate in charge of the medical department there to attend to his duty from sickness, renders his return to the north necessary. I have sent another to take his place, but this leaves us deplorably off for medical men.

I purpose removing the principal part of the forces to the north, about the middle of next month, as the only means of guarding against the consequences of a deficiency of surgeons.

I have the honour to be, with great respect, your ob't serv't,

(Signed,) D. PORTER.

Honourable SAML. L. SOUTHARD, *Secretary of the Navy.*

I certify the foregoing to be a true copy of the original on file in this Department. CHAS. HAY. *Chief Clerk.*

NAVY DEPARTMENT, *July* 6, 1825.

(No. 38.) (Copy.)

NAVY DEPARTMENT, *May* 31*st*, 1824.

SIR: Your letter of the 4th of May has been received. The Decoy will be prepared to return to you as speedily as possible. No provision has been made for the repairs of the Greyhound, and it is probable that she will be laid up or sold. When any vessels are ordered home for repairs, they must be reported to the Department, that orders may be issued for the purpose.

The amount of force at this time, on the station, is less than was intended; but the delay in passing the appropriation law, has rendered it impossible to send to you either the Hornet or the Porpoise. They will both be despatched now, as soon as they can be prepared. This delay is the more to be regretted, as the Hornet must either encounter the rainy season, or not go to the Coast of Africa, as was originally designed. You have now under your command the John Adams, Hornet, Spark, Porpoise, Shark, Sea Gull, Decoy, and seven small Schooners, in all fourteen vessels, exclusive of the Barges. I did intend to send a larger vessel than any of them, but the amount of the appropriation and the time it was made, will probably put it out of my power. It shall still however be done, if it can be accomplished. I regret the state of your medical aid; you have now eleven medical officers attached to the station; and within ten months past, there have been under your command no less than five Surgeons and seventeen Surgeons mates, many of them acting as Surgeons and fitted for the office. With such numbers your medical assistance ought not to have been so reduced as you state it to be at present. Neither these, nor other officers must be permitted to leave the station for light excuses; if they are, it will be impossible for the Department to keep the station supplied. All that can be done with the numbers for which provision is made by law, will be done. In the mean time, those with you must be retained, unless absolute necessity compels them to leave you.

I am, very respectfully, &c.

(Signed) SAM'L L. SOUTHARD.

Com. DAVID PORTER, *West Indies.*

(No. 39.)

WASHINGTON, *25th June*, 1824.

SIR: I have the honour to inform you that I arrived here yesterday in the Sea Gull, from the Coast of Cuba, in 9 days, and shall be prepared to return to the West Indies so soon as the season will render it safe to do so, and my health, which requires a respite from the effect of a tropical climate will admit.

My former communications have apprized you of my intention of removing most of the vessels under my command to the North during the sickly season. Orders have been given by me on the subject, and every arrangement made to give as much protection to our commerce, as the force remaining on the station will admit.

I had purposed sailing from New-York, and visiting in my way out, as heretofore, the windward Islands, so soon as I can get a sufficient force together, and leaving a small detachment in the neighbourhood of St. Thomas, for the protection of our commerce there, where it was asked for by our merchants when I last visited that place.

The John Adams, it is probable, will require heaving out on her return, which will be in a week or two, which will leave me with only one sloop of war.

As the health of Captain Wilkinson required his return, I have left Lieut. Oellers in command at Thompson's Island, with full instructions as to the duties to be performed there; and I have left all necessary orders also for the commanders of such vessels as may arrive during my absence.

The Island promises to be healthy this season. I have left about sixty officers and men there, but I am sorry to say I had only a surgeon's mate to leave to attend them during the sickly season.

I have during this season greatly improved the comfort and condition of the Island, and thereby lessened that repugnance to remaining there which formerly existed among both officers and men.

I shall proceed to New-York in a few days, to hasten the despatch of the stores for the squadron and Island which are preparing there, and which are much required.

If there are any instructions from the Department affecting my various duties, I shall be happy to be furnished with them as early as possible

I have the honour to be, sir, your obedient servant,

(Signed,) DAVID PORTER.

Hon. SAMUEL L. SOUTHARD.

I certify that the foregoing is a true copy from the original on file in this Department. CHAS. HAY, *Chief Clerk*.

NAVY DEPARTMENT, *July* 6, 1825.

(No. 40.)

NAVY DEPARTMENT, *29th June*, 1824.

SIR: I have the honour to transmit to you herewith copies of

letters bearing date the 23rd of April, 15th, 17th, 24th, and two of the 31st May 1824, addressed to you at Thompson's Island, which it is presumed you have not received, and to which, I beg leave to call your attention.

Should I find, upon further examination, any more which possibly may not have been transmitted in time to reach you, copies shall be immediately furnished.

I am, very respectfully, &c.

(Signed,) CHARLES HAY,

Comme. D. PORTER, *For the Secretary of the Navy.*

Commanding West India squadron, Present.

I certify that the foregoing is a true copy from the original on file in this Department. CHAS. HAY, *Chief Clerk.*

NAVY DEPARTMENT, *July* 6, 1825.

(No. 41.)

Copy of a letter from Commodore David Porter to the Hon. Secretary of the Navy, dated, WASHINGTON, *August* 11*th*, 1824.

"SIR: Understanding it to be the intention of the government to give me a ship suited to my rank in the service, I have ordered the John Adams to proceed to the West Indies, and thence to the Gulf of Mexico, for the protection of our commerce, where her services are much wanted. Should a Frigate be selected, I beg leave to state that it will be most agreeable to me that there should be no commander appointed to her, as I should wish the particular and personal command to be vested in myself alone.

I also beg leave to observe that a flag or fleet Captain to the squadron may be dispensed with; if I can be allowed to select an intelligent Lieutenant to relieve me from many of the details of the squadron; for the present the services of Captain Finch are necessary to me, but I shall not want him long, and it is his wish to retire from the situation so soon as I can otherwise provide myself.

I shall be glad to be apprized as early as possible of the ship intended for me, that I may give my personal attention to our outfits."

I have the honour to be, with great respect, your obd't serv't,

(Signed,) D. PORTER.

(No. 42.)

Extract of a letter from Charles Hay, Esq. to Captain D. Porter, dated GEORGETOWN, D. C. 11*th Sept.* 1824.

"I have heard from the Secretary, who has ordered the Constellation to be fitted for you, and authorized me to tell you so. But as she is not officially ordered to you as yet, I would not interfere with her. However, of this you are the best judge. Your letters about money, have been received, and will be submitted to the Secretary on his return; in the mean time Thornton can supply

you with what is necessary. The Secretary is *very anxious* that you should be out again, with as little delay as possible, and will no doubt facilitate your preparatory operations."

(Signed,) Your friend and ob't serv't,
CHAS. HAY.

Capt. D. PORTER, *Chester, Pennsylvania.*

(No. 43.)

NAVY DEPARTMENT, 14 *October*, 1824.

SIR: It is deemed expedient by the Executive, that you proceed as speedily as possible to your station, in the John Adams, that by your presence there the most efficient protection may be afforded to our commerce, and you may be ready to meet any contingencies which occur.

The Constellation will be fitted for sea and sent to you as speedily as possible.

I enclose, by the order of the President, an extract from a letter lately received from the Island of Cuba; you will consider it confidential, and to be used for your information, so far as you may find it useful.

With the Constellation, directions will be sent for you to proceed to the Island of Hayti, there to accomplish certain objects which will be particularly explained to you, and instructions given.

I enclose a circular letter on the subject of acting appointments, to which I urge your particular attention. No subject has been found to create greater difficulties than acting appointments, and permission to officers to perform duties above the grade in which they are known to the Department.

I also enclose certain directions for the survey of Pensacola, Tampa Bay, Key West, and the Dry Tortugas.

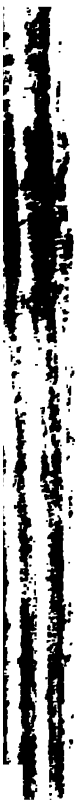
I have also directed to report to you for the purpose of aiding in the survey, Master Commandant ———— ————, Lieut. J. W. Sherbourne, Midshipman Lewis M. Goldsborough, and Joseph Bowman. Should you deem the services of any other officers necessary for this purpose, you will inform me of it. You will direct the vessel to be used for this purpose. The Florida will be detained for a few weeks, to make a survey of Charleston harbour, after which, she will be ordered to proceed forthwith to join your command.

I am, respectfully,
(Signed) SAML. L. SOUTHARD.

Com. DAVID PORTER, *Comd'g U. S. Squadron, West Indies, &c. Washington.*

I certify that the foregoing is a true copy from the original on file in this Department. CHAS. HAY, *Chief Clerk.*

NAVY DEPARTMENT, *July* 6, 1825.



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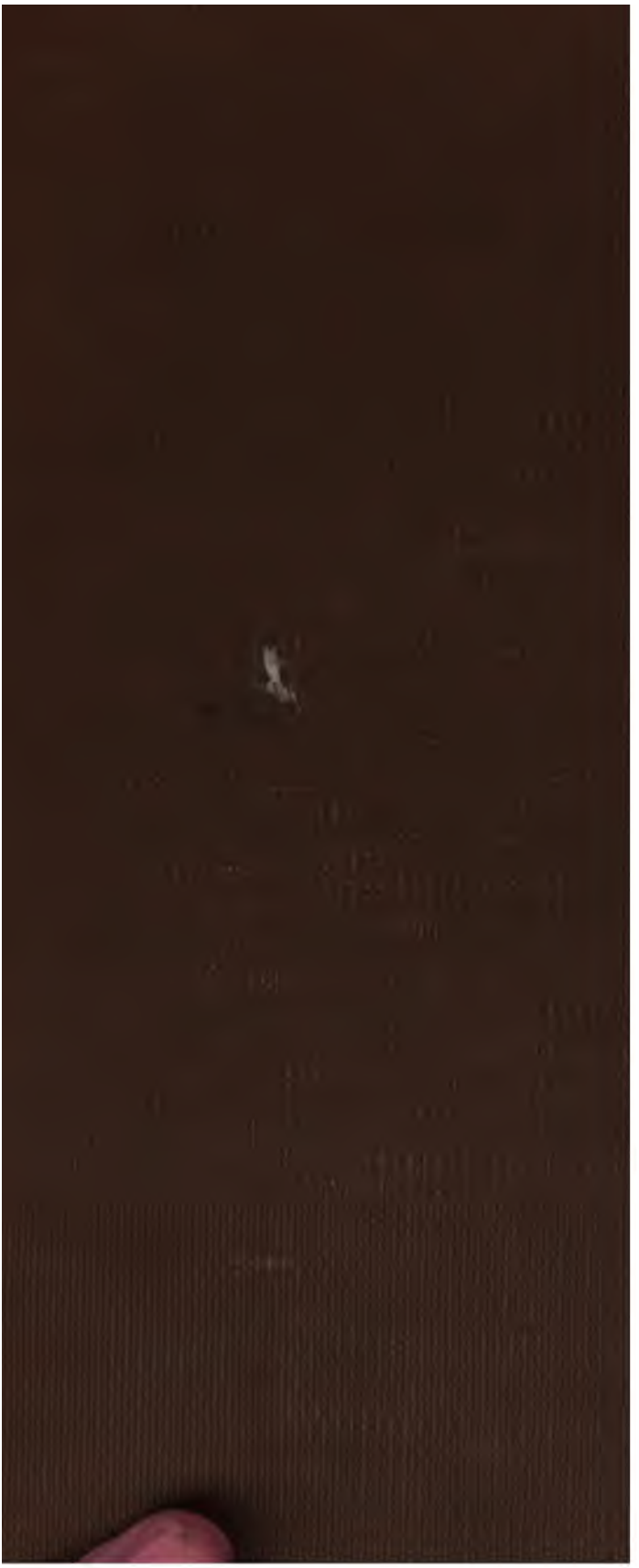
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